



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

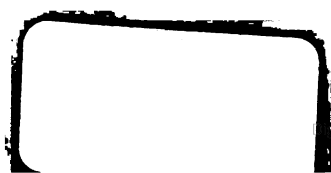
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



7-17
19

CL 18 1907

**AFFRAY
AT BROWNSVILLE, TEX.**

395495

HEARINGS

BEFORE THE



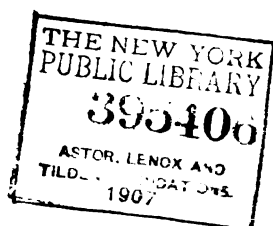
**COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,**

CONCERNING

**THE AFFRAY AT BROWNSVILLE, TEX.,
ON THE NIGHT OF AUGUST
13 AND 14, 1906.**

VOL. 3.

**WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1907.**



THE NEW YORK
PUBLIC LIBRARY
ASTOR, LENOX AND
TILDEN FOUNDATIONS
1907

INDEX.

	Page.
Adams, William Henry.....	2670-2683
Ainsworth, F. C. (major-general, The Adjutant-General, U. S. Army):	
Letter of, to Senator Foraker, relative to military record of James W. Newton.....	2971
Letter of, to commanding-general, Southwestern Division, ordering investigation as to the allegations made before Senate Committee as to defacing of Government rifles and selling or giving away of Government rifles and ammunition.....	3043
Letter of, to Senator Foraker, transmitting copy of special order sending Lieutenant Leckie to Brownsville to investigate shooting affray.....	3207
Telegram of, to General McCaskey, inquiring about Lieutenant Leckie's authority for investigation at Brownsville and his report concerning same.....	3217
Bailey, Senator Joseph W.:	
Telegram of, to Secretary Taft, relative to shooting at Brownsville (signed Culberson and Bailey).....	2526
Baker, A. Y. (an inspector of customs, Brazos de Santiago district).....	2774-2780
Baker, Frank (lieutenant-colonel, Ordnance Department, U. S. Army)....	2892-2893
Barnett, Joseph J. (a private of Company K, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3072-3073
Bates, Charles F. (captain, Twenty-fifth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3094-3095, 3096
Beall, Marion E. (interpreter).....	2070-2071
Billingsley, Albert Walter.....	2474-2483
Extracts from testimony of, before Senate Committee.....	3120, 3121
Blocksom, Augustus P. (major, Inspector-General's Department, U. S. Army).....	2583-2656
Extract from telegraphic report of, to The Military Secretary, Washington, D. C.....	2411, 2542, 2602
Extracts from telegraphic report of, to military secretary, Southwestern Division.....	2431
Extracts from report of, relative to shooting at Brownsville.....	2590, 2641
Extracts from testimony of, before Penrose court-martial....	2603, 2605, 2647, 2648
Telegram of, addressed to Captain Kelly or Mayor Combe, asking for various affidavits relative to shooting at Brownsville.....	2632-2633
Extract from supplemental report of, to military secretary, Southwestern Division.....	2646-2647, 2655
Bodin, Joseph.....	2204-2217
Extracts from testimony of, before Mr. Purdy and Major Blocksom.....	2211, 2212, 2215, 2216
Burnham, W. P. (major, General Staff, U. S. Army):	
Indorsement of, transmitting to The Adjutant-General, Washington, D. C., Lieutenant-Colonel French's report.....	3044
Burt, Andrew S. (brigadier-general, U. S. Army, retired).....	3189-3204
Butler, Frank G. (a first sergeant of Company K, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3067-3069
Calderon, Felix Valdez.....	2259-2264, 2270-2273
Canada, Charles Stafford.....	2274-2299
Extracts from testimony of, before citizens' committee.....	2284, 2285, 2289, 2297
Extracts from testimony of, before Mr. Purdy and Major Blocksom.....	2292, 2295
Extracts from examination of, by citizens' committee.....	2547
Chace, Charles B.....	2186-2204
Extracts from testimony of, before Mr. Purdy and Major Blocksom.....	2200, 2201

	Page.
Cloetta, Conrad L.:	
Testimony of, before Lieutenant-Colonel French.....	3091
Combe, Frederick J.....	2380-2451
Cowen, Anna Adrienne.....	2790-2803
Cowen, Louis Harold.....	2923-2927
Cowen, Louis R.....	2805-2834
Extracts from testimony of, before Mr. Purdy and Major Blocksom....	2824, 2825
Creager, Rentfro B.....	2839-2848
Crixell, Joseph L.....	2483-2518
Extracts from testimony of, before Senate Committee.....	2828, 3121-3122, 3123-3124, 3124, 3146, 3152
Crozier, William (brigadier-general, Chief of Ordnance, U. S. Army).....	2848-2884
Indorsement of, forwarding to the Secretary of War Lieutenant Hawkins's report.....	2270
Extracts from testimony of, before Senate Committee.....	3164-3165, 3166
Culberson, Senator Charles A.:	
Extract from telegram of, to Secretary Taft, urging removal of negro troops from Brownsville.....	2109, 2411
Telegram of, to Secretary Taft, urging removal of negro troops from Browns- ville.....	2526
Telegram of, to Secretary Taft, relative to shooting at Brownsville (signed Culberson and Bailey).....	2526
Davis, Arthur I.....	2780-2790
Dewalt, Dee:	
Affidavit of, relative to Allison assault.....	3220
Extract from affidavit of, relative to Allison assault.....	3247
Dominguez, M. Ygnacio.....	2111-2138
Elkins, Herbert.....	2312-2340
Extract from examination of, by citizens' committee.....	2547
Extract from testimony of, before Senate Committee.....	2829
El Paso, Tex., affair at (1900):	
Copies of portion of documents relating to.....	3201-3203
Ely, Hanson E. (captain, Twenty-sixth Infantry).....	2683-2712
Testimony of, before Mr. Purdy and Major Blocksom.....	2688-2694
Fergusson, Walter H. (interpreter).....	2470
Fernandez, Victoriano S.....	2244-2259
Extracts from testimony of, before citizens' committee.....	2250, 2251, 2252, 2253, 2254, 2255
Fields, H. M.:	
Testimony of, before Lieutenant-Colonel French.....	3090-3091
Forster, William (formerly a sergeant of Troop F, Fifth Cavalry).....	2656-2670
Official discharge of.....	2665
French, F. H. (lieutenant-colonel, Inspector-General's Department, U. S. Army):	
Letter of, to adjutant-general, Southwestern Division, transmitting re- port.....	3044-3046
Report of, as to allegations made before Senate Committee that a number of Government rifles had been defaced and Government rifles and ammu- nition sold or given away.....	3046-3099
Letter of, to adjutant-general, Southwestern Division, transmitting affi- davit of Jerry S. Riley.....	3099
Garlington, Ernest A. (brigadier-general, Inspector-General, U. S. Army).....	2713-2749
Extracts from letter of, to The Military Secretary, Washington, D. C., sub- mitting report of investigation.....	2724, 2725, 2729, 2730, 2733, 2734, 2744
Garza, Ygnacio.....	2749-2761
Gebhardt, Earl M.:	
Extracts from testimony of, before Penrose court-martial.....	2869, 2870
Gillis, George S. (first lieutenant, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3076-3078
Hammond, Charles E.....	2171-2185
Extracts from testimony of, before Mr. Purdy and Major Blocksom.....	2179, 2180, 2181, 2184
Hawkins, Wilford J. (captain, Ordnance Department, U. S. Army).....	2884-2892
Report of, relative to three bullets (exhibits accompanying testimony taken by Mr. Purdy and Major Blocksom).....	2265-2269
Extract from report of.....	2696

	Page.
Hill, John H.: Extract from affidavit of, submitted by Constitution League.....	2667
Humphrey, Andrew B. (secretary, The Constitution League of the United States): Extract from letter of, to President Roosevelt.....	2721
Jagou, Louis A.: Telegram of, to Senator Warren, stating reason for failure to appear before Senate Committee	3101
Jebb, Algernon (a private of Company K, Twenty-sixth Infantry): Testimony of, before Lieutenant-Colonel French.....	3049-3052, 3089-3090
Kelly, William.....	2518-2564
Extracts from testimony of, before Senate Committee.....	3008, 3009
Kilburn, Dana Willis (captain, Twenty-sixth Infantry): Extract from testimony of, before Senate Committee.....	2406
Testimony of, before Lieutenant-Colonel French.....	3046-3049, 3084-3085
Kleiber, John I.....	3239-3247
Knight, Ora W. (State assayer, Bangor, Me.): Letter of, to President Roosevelt.....	2850-2852
Kowalski, Bernard Louis.....	2834-2838
Lawrason, George C. (second lieutenant, Twenty-fifth Infantry).....	3145-3151
Leahy, Katie Emma.....	2893-2923
Extracts from testimony of, before Senate committee	3011, 3012
Leckie, Harry G. (second lieutenant, Twenty-sixth Infantry).....	3204-3239
Testimony of, before Lieutenant-Colonel French.....	3087, 3091-3092
Special Orders No. 65, Department of Texas, directing investigation at Brownsville by.....	3207-3208
Extracts from former testimony of, before Senate Committee....	3209, 3216, 3231
Extracts from testimony of, before Penrose court-martial.....	3226, 3227, 3228
Levie, Alexander J. (a private of Company A, Eighteenth Infantry).....	2939-2958, 3005-3007
Lipscomb, Frank J. (formerly a private of Company C, Twenty-fifth Infantry).....	2994-3004
Official record of.....	2995
Extracts from testimony of, before Colonel Lovering.....	3000
Littlefield, Ambrose.....	2451-2470
Extracts from testimony of, before Penrose court-martial.....	2465, 2466
Loughborough, R. H. R. (captain, Twenty-fifth Infantry): Letter of, to adjutant-general, Department of Texas, reporting misconduct of a number of men of Company A, Twenty-fifth Infantry, at El Paso, Tex. (1900).....	3196, 3201
Lunkenheimer, Charles N.....	2927-2929
Extracts from testimony of, before Senate Committee	3170, 3171, 3172, 3174-3175, 3175, 3176
Lyon, Samuel P. (captain, Twenty-fifth Infantry).....	3151-3167
McCarty, Charles A. (a sergeant of Company K, Twenty-sixth Infantry): Testimony of, before Lieutenant-Colonel French.....	3073-3075
McCaskey, William S. (brigadier-general, U. S. Army, commanding Department of Texas): Telegram of, to The Adjutant-General, Washington, D. C., relative to Lieutenant Leckie's order to make investigation at Brownsville, and his report thereof before Penrose court-martial.....	3127
McDonnell, James P.....	2565-2580
Extracts from testimony of, before citizens' committee	2570, 2571
Extracts from testimony of, before Mr. Purdy and Major Blocksom.....	2571, 2572, 2573, 2574, 2575, 2576, 2577
Extracts from testimony of, before Penrose court-martial.....	2579
McKay, A. N.....	2217-2223
Extracts from testimony of, before Mr. Purdy and Major Blocksom.....	2222
Macklin, Edgar A. (captain, Twenty-fifth Infantry).....	3119-3144
Extracts from testimony of, before Penrose court-martial.....	3141, 3142
Martinez, Amada.....	2803-2805
Martinez, José.....	2071-2084
Extracts from testimony of, before Penrose court-martial....	2079, 2080, 2081, 2083
Martinez, Teófilo.....	2470-2474
Matthews, Jack.....	3179-3188
Mayfield, Miss Willie.....	2769-2773

	Page.
Means, James A. (a quartermaster-sergeant of Company K, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3069-3072, 3086
Moore, Helen.....	2762-2769
Newton, James W. (formerly a private of Company C, Twenty-fifth Infantry)	2958-2994
Official record of.....	2969
Charge and specification against, under sixty-second Article of War.....	2970
Extracts from testimony of, before Senate Committee.....	3203
Nolan, W. C.:	
Extract from testimony of, before Senate Committee.....	2654-2655
Extracts from testimony of, before Mr. Purdy and Major Blocksom....	2964, 2965
Odin, Hale:	
Testimony of, before Mr. Purdy and Major Blocksom.....	2929-2937
Oliver, Robert Shaw (Assistant Secretary of War):	
Letter of, to Senator Warren, relative to rifles used by Mexican Army.....	3259
Onan, Noble (an artificer of Company K, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3064-3067
Padron, Genaro.....	2138-2155, 2564-2565
Extracts from testimony of, before Senate Committee.....	2170
Parker, Allen (first lieutenant, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3096-3099
Parks, Eleanor:	
Testimony of, before Mr. Purdy and Major Blocksom.....	2341-2343
Parks, Judge W. N. (deceased):	
Letter of, to Mrs. Parks, relative to shooting at Brownsville.....	2342
Penrose, Charles W. (major, Twenty-fifth Infantry).....	3008-3043, 3101-3119
Extracts from letter of, to Mayor Combe.....	2432
Extracts from report of, to military secretary, Department of Texas, relative to shooting at Brownsville.....	3037-3038, 3114
Report of, to military secretary, Department of Texas, relative to shooting at Brownsville.....	3113-3114
Police force of Brownsville, on August 13, 1906.....	2148
Porter, George Thomas.....	2155-2171
Extracts from testimony of, before Mr. Purdy and Major Blocksom....	2163, 2164
Preciado, Paulino S.....	2299-2312, 2580-2583
Affidavit of, before the grand jury.....	2341, 2580-2581
Ramirez, Macedonio.....	2224-2243
Extract from testimony of, before citizens' committee.....	2236
Extract from testimony of, before Mr. Purdy and Major Blocksom.....	2236
Rendall, Elizabeth V.....	2060-2070
Rendall, George W.....	2032-2060
Extract from testimony of, before Penrose court-martial.....	2044
Extract from testimony of, before citizens' committee.....	2047
Extracts from testimony of, before Mr. Purdy and Major Blocksom....	2047, 2048
Rice, John H. (captain, Ordnance Department, U. S. Army).....	3247-3259
Extracts from testimony of, before Mr. Purdy and Major Blocksom.....	3251
Richardson, Mack (first lieutenant, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3075-3076
Rifles, dimensions of Krag-Jørgensen and of Springfield model of 1903.	3234, 3253-3254
Riley, Jerry S. (a quartermaster-sergeant of Company C, Twenty-second Infantry):	
Affidavit of, supplemental to Lieutenant-Colonel French's report.....	3100
Rose, Charles (formerly a first sergeant of Company K, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3078-3083
Russell, A. H. (lieutenant-colonel, Ordnance Department, U. S. Army):	
Letter of, to Senator Warren, relative to weight and composition of ammunition for United States magazine rifle, model of 1903.....	3224
Ryan, William (a corporal of Company K, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3052-3064, 3087-3089
Extracts from testimony of, before Senate Committee.....	3060
Sanborn, F. A. H.....	2084-2101
Extracts from testimony of, before Penrose court-martial.....	2098, 2099
Sharp, Eber I. (a post quartermaster-sergeant, U. S. Army):	
Testimony of, before Lieutenant-Colonel French.....	3092-3094, 3095
Small Arms Firing Regulations (1906), extract from.....	2438

	Page.
Starck, Fred E. (a mounted inspector of customs, Brazos de Santiago district).....	2343-2363
Extracts from testimony of, before citizens' committee.....	2355, 2356, 2357
Starck, Mrs. Fred E.:	
Extract from testimony of, before Mr. Purdy and Major Blocksom	2361
Stewart, Gilchrist:	
Extracts from letter of, to President Roosevelt.....	2720
Sturgis City, Dakota Territory, affair at (1885):	
Copy of portion of documents relating to.....	3198-3200
Taft, William H. (Secretary of War):	
Memorandum of, accompanying report of Lieutenant Hawkins.....	2265
Letter of, to President Roosevelt, inclosing copy of affidavit of Paulino S. Preciado.....	2340
Letter of, to Senator Lodge, relative to records of various enlisted men in the Army of long service and good character	2937-2938
Taliaferro, Spottswood W. (a battalion sergeant-major of the Twenty-fifth Infantry):	
Extracts from testimony of, before Senate Committee	2974, 2977
Tate, Fred (an inspector of customs, Brazos de Santiago district)	2363-2379
Extracts from letter of, to collector of customs, Brazos de Santiago district, relative to personal difficulty with negro soldier.....	2961, 2962
Thorn, Charles H.....	2101-2111
Washington, Winter (formerly a corporal of Company D, Twenty-fifth Infantry).....	3173-3178
Watson, Henry (a private of Company M, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3085-3086
Weaner, Frank (a sergeant of Company K, Twenty-sixth Infantry):	
Testimony of, before Lieutenant-Colonel French.....	3090
Wheeler, Jesse O.:	
Telegram of, to Senator Warren, relative to authorship of certain article in Brownsville Herald.....	2557
Wheeler, Samuel (formerly a corporal of Company D, Twenty-fifth Infantry)	3168-3173

AFFRAY AT BROWNSVILLE, TEX.

COMMITTEE ON MILITARY AFFAIRS,
Tuesday, May 14, 1907.

The committee met, pursuant to the adjournment, at 11 o'clock a. m.
Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

The CHAIRMAN. The committee will come to order. Is there anything to be taken up before we call a witness?

Senator FORAKER. There is only one thing I want to do here. All the proceedings of the Penrose court-martial are here in bound form, and many of the witnesses now subpoenaed to appear before us were examined there. We have frequently said that this is all before us, but I want now to offer it formally in evidence: not to have it reprinted, or to go to any expense about it, but I want the record to show that the whole thing is formally offered and is in evidence.

The CHAIRMAN. That is, it is before us just as the President's message and the evidence accompanying it are before us.

Senator FORAKER. The only thing about it is that most of these witnesses were very thoroughly examined and cross-examined before the court-martial.

Senator WARNER. As some of your witnesses were, also.

Senator FORAKER. Yes, exactly. I do not want to have to go over the same thing. I want to ask each witness a few questions; but the cross-examination there would be in the main entirely satisfactory to me.

Senator WARNER. I have simply this idea about it, that these matters are here before us, and they will be before the Senate.

Senator FORAKER. Yes, they will be in. I wanted to call attention formally to the fact that the testimony was taken under oath, and subject to cross-examination.

The CHAIRMAN. I suppose your suggestion is that this is to be as much a part of the whole as what came with the President's message?

Senator FORAKER. That is all.

The CHAIRMAN. And you do not wish to interpolate it en bloc in these proceedings?

Senator FORAKER. I do not want it reprinted, or to go to any expense. I only want it understood that it is formally offered and is in evidence.

The CHAIRMAN. Of course we have not yet the Macklin court-martial proceedings, but we will get them.

On motion of Senator Foraker, the daily hours of the sitting of the committee were fixed at 10.30 a. m. to 1 p. m. and 2 p. m. to 4.30 p. m.

At 11.20 o'clock a. m. the committee adjourned until to-morrow, May 15, 1907, at 10.30 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Wednesday, May 15, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF GEORGE W. RENDALL.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Give your name in full, please.—A. I am a little hard of hearing, gentlemen. I think that I ought to be near you when you ask me questions.

Q. Just give your name.—A. G. W. Rendall.

Q. What is your age, Mr. Rendall?—A. Seventy-two years.

Q. Where do you reside?—A. In Brownsville, Tex.

Q. How long have you lived there?—A. I have made that my home since 1859.

Q. Are you a property holder there?—A. Sir?

Q. Do you own property?—A. I do; yes, sir.

Q. Were you ever in the service?—A. I never was in the service since the unpleasantness. I was in the United States Navy in the Japanese expedition that left the United States, left New York, in 1853. Since then I have been in civil service; that is, in business.

By Senator OVERMAN:

Q. That was the expedition under Commodore Perry?—A. Yes, sir.

By Senator WARNER:

Q. And what has been your business?—A. I am a mechanical and civil engineer.

Q. You know where the Western Union Telegraph office is there in Brownsville?—A. Yes, sir; that is my building.

Q. You know that building?—A. Yes, sir.

Q. Do you own other property in that vicinity?—A. I own four other buildings on what is called Fifteenth street.

Q. Fifteenth street. Is that what we have been calling Garrison Road?—A. Exactly.

Q. Where were you on the night of the 13th of August, last year, at the time of the affray there at Brownsville?—A. I was living at the time, and had been for some little time previous to that, up over the Western Union office.

Q. In that building?—A. Yes, sir; fronting on the Government wall.

Q. Does that building front on Elizabeth street or on Fifteenth street?—A. On both Elizabeth street and Fifteenth street.

Q. It is on the corner?—A. Right on the corner.

Q. Do you know the time the Twenty-fifth Infantry came there—the colored soldiers?—A. I do; yes, sir.

Q. You were living there at that time in the same place?—A. Yes, sir.

Q. On the night of the 13th what was the first you knew of any disturbance?—A. I was asleep when the first shots were fired, and at the second shot, which probably was a second or two afterwards, I got up and went to my front window, which is the window facing toward the garrison.

Q. Toward the garrison?—A. Facing southeast; yes, sir.

Q. What is the width of Garrison road at that point at what you call Fifteenth street?—A. Thirty feet.

Q. Thirty feet?—A. Yes, sir.

Q. And what is the distance from your house to the brick wall of the garrison?—A. From the window where I was looking out it was about 35 feet.

Q. When you heard this shooting—the first shooting—I will get you to state if you saw any parties moving about there at the garrison?—A. I looked out of this window—well, probably in two seconds after the second shot was fired. I just got out of my bed—my bed was within two feet and a half of the window—and looked out of the window, and at my right, at the entrance of the big gate going into the garrison, there are two lights over that, two large lights, and my attention was naturally called toward those lights, because the shots apparently were at the right-hand side of me, and I saw from three to five men coming apparently toward the big gate, as though they were coming out into Elizabeth street, but they were about halfway between the end of the barracks—D, I believe you call it; the lower one [indicating on map]—they were about halfway betwixt there and here [indicating] when I saw them.

Q. That is the barracks that is nearest to the river?—A. Yes, sir; that is D. They were about there from the end of that barracks.

Q. Which end, the nearest to the gate?—A. About halfway to the entrance to the gate when I saw them. Just as I glanced at them there was a shot at the left and that drew my attention up that way.

Senator FORAKER. How many men did you say you saw there?

Senator WARNER. He said three to five.

Senator FORAKER. From three to five?

Senator WARNER. Yes.

The WITNESS. I looked up to the left, and saw a number of men, I don't know how many, but I judge there were ten or twelve, and as my vision rested on those there were two shots fired, and I thought at the time they were fired from a self-cocking pistol, and I think that the shots were fired from a pistol in the hands of one man. Now, I am not positive about that, but it was done just about as quick as a man would pull the trigger of a self-cocking pistol. These shots were elevated. I saw the flash from the weapon, and it was shooting up, nearly a north course, but elevated as though it was a signal of some kind, and I judged right away it was an alarm of fire.

Q. You thought it was an alarm of fire?—A. Yes, sir; seeing it elevated up, because I knew that the man was not shooting at anything.

By Senator TALIAFERRO:

Q. Were these shots inside of the inclosure of the barracks?—A. Yes, sir; they were inside.

Senator TALIAFERRO. Very well.

The WITNESS. Those men were together, were grouped together at that time, and were about where that letter F is [indicating on map].

By Senator WARNER:

Q. Now, will you please, in giving your answers, not say "right there" and "right here," but indicate it so that the stenographer may get down to something which will be intelligible? Will you mention what street it is on, or the location, as near as you can?—A. Well, they were about midway between the wall and the barracks.

By Senator OVERMAN:

Q. What barracks?—A. Barracks B; and they were moving that way, to the northwest, or the north [indicating]—the northeast, I suppose it is. The line of this wall I judge runs nearly east and west. They were moving that way at the time those shots were fired. They were apparently coming together there from different places. Now, my observation of those men at the time was just merely a glance, you understand, because I did not apprehend anything. I knew that the men belonged there. I never could look out of my window day or night without seeing some men around there. They were moving backwards and forwards there. I saw nothing extraordinary. The only thing that called my attention to the men moving there was simply the shots. The reports of the gun were out of the common, and that drew my attention to it, and after those two shots were fired there I went to the window on the other side of my building there to look out to see if I could see a light, a flare, from the fire. I saw nothing there, and I returned to this side, there, and looked down here [indicating on map].

Q. That is, you turned to the side fronting on Elizabeth street?—A. Yes, sir; going across that room, 20 feet, looking out of one window and then back and looking out of the other was the time that I was not looking at these men. Outside of that, until they went over the wall I was looking at them all the time. When I looked at them again, when I turned back to the window overlooking the garrison, they were close to the wall.

Q. Close to the wall inside or outside of the garrison?—A. Inside of the garrison. There is a little building right up in there [indicating].

Q. You say "right up in there." Can you not describe the location?—A. Well, right abreast of the alley there was a small building in there, and they were huddled in there. Those I could see from the reflection of the light were in there. That building is whitewashed.

Q. That building is in rear of the wall of the barracks?—A. Yes, sir.

By Senator OVERMAN:

Q. You say the building was whitewashed?—A. Yes, sir; we call it whitewashed. There was whitewash there in other places, and it had some blueing in it. When it was put on it was genuine lead color, I suppose, but it fades out and gets to be a dirty white.

Q. Proceed.—A. The next thing I saw of these men they were going over the wall, and after they got out into the street, into Fifteenth street, I couldn't tell which way they went. They were out of my sight. Except when they went over the wall they were so far away from the lights at the entrance to the post there that it was hard for me to tell who or what they were. I just saw the forms. The only men I identified sure were those that were close to the window.

Q. You say the only men you identified sure were what men?—A. The only men I identified sure were the first ones I saw when I was looking out of the window. They were close up under the light.

Q. How many of them were there?—A. I think there were five of them, but I am sure there were three. I think there were five. You see, I just glanced at those men, knowing they ought to be there, and I did not—

Q. Were those white men or colored men?—A. Those were colored men, with the army uniform.

Q. Speak a little louder.—A. They were colored men, black men, with the army uniform on.

Q. You say they turned, as I understood, up to the left? That is, you mean to the left as you were looking into the gate from Fifteenth street?—A. Yes, sir.

Q. They turned up there?—A. Yes, sir.

Q. And then they seemed to collect together before going over the wall, with other parties?—A. They collected together apparently with the intention of going over the wall at one place, and that was just at the west side of that—I don't know what you call it—it is a water-closet.

By Senator SCOTT:

Q. How high was that wall where they went over?—A. The wall?

Q. What was the height of the wall where they went over?—A. About 4 feet—4½ feet, I suppose.

By Senator WARNER:

Q. As I understand, these three or five men you saw here were near the gate?—A. Yes, sir; right in the gate—that is, inside of the gate about, I judge, halfway betwixt the barracks and the wall.

Q. And then they turned, you say, to the left. That would be up toward C barracks?—A. And went up that way [indicating].

Q. Where they collected and got over the wall, about what point was that? We have been calling up that way east, Mr. Rendall; it is northeast [indicating on map].—A. Northeast; yes, sir.

Q. But we have been calling it east. Now, when you say they were collecting, was that up toward the east end of barracks B?—A. No. I do not know, gentleman—you may think I am a little presumptuous about this, but that map is not correct.

Q. That we have found out.—A. That map is not correct.

Q. No; it is not.—A. I wish to explain here. You can see by the photographs here. The width of this street is the width between these buildings here, and this comes up on a true line with Elizabeth street [indicating], and this is on a line here, and this building here, the line comes right straight across [indicating on map].

Q. Yes; that is not exactly right.—A. This is a little out of the way here.

Q. There is also a small gate here just opposite your house, opposite the sidewalk on Elizabeth street?—A. Yes, sir.

Q. A foot gate, for foot passengers?—A. Yes, sir. And there is a plank sidewalk that runs clear past the entrance of this building here, and then this comes and turns and runs that way [indicating on map]. That is a little confusing to me on account of not locating it exactly, but the location of that street is out considerable.

Q. I understand the general location of the barracks is correct, except for those inaccuracies you have spoken of?—A. Yes, sir.

Q. All the witnesses have stated that that is not just correct. Now you say that after these men got over the wall—these parties—you do not know just what direction they took?—A. No, sir. As far as I saw they just dropped down on the street. I do not know that I could, if I had wanted to, have seen where they went, but I did not.

Q. Did I understand you to say that they got over the wall at that point there [indicating]?—A. Yes, sir; up abreast of that alley.

Q. Just state again, as near as you can, the point at which they got over the wall.—A. They got over the wall about here, as far as the map is concerned, at Elizabeth street [indicating], and when you take the barracks into consideration, it was about in the center of the barracks.

Q. In the center of barracks B?—A. Yes, sir; because this barracks is down here. The end of that barracks there ought to have been about there [indicating on map]; but they got over right at that alley, and right in here is this building [indicating].

Q. That is the alley between Elizabeth and Washington streets?—A. Yes, sir; that is about 30 feet, too, I think. I don't know exactly the width of that alley. There is where they got over the wall, and dropped down, and where they went I don't know. I didn't see the men after that until the roll was called.

Q. About how many shots did you hear after that?—A. Sure five.

Q. I know, but in the entire town.—A. I don't know; I have no idea.

Q. After these men got over the wall, will you state how the shooting sounded, whether it was going from the barracks down into the town, if you have an idea?—A. The first reports that I noticed after they crossed over the wall were probably thirty seconds after they got over the wall. They appeared to be in the alley, back in a north direction of my house. That would bring it back about the corner of that block, about where that number "14" is, on Fourteenth street.

Q. About here [indicating]?—A. Yes. That is where they sounded.

Q. On Fourteenth, but up that alley between Washington and Elizabeth streets?—A. Yes, sir; that is where I judged the first shots were, although I don't know anything about it. But they sounded that way. Then the reports receded farther up until they got so far that I could only hear them indistinctly. I couldn't hear them plain.

Q. Was your house shot into that night, Mr. Rendall?—A. Yes, sir; there was one shot entered the house in the lower end of the roof. The roof projects over the siding. It passed through five thicknesses of lumber on that side of the house, through my mosquito bar over my bed, and through four thicknesses of lumber on the other side of the house, and went out.

Q. It went through the house, through all those thicknesses of lumber, and went out?—A. Yes, sir. It passed diagonally across the room.

Q. Did you notice anything there that evening, anything particular, with reference to the time the ball went through the house?—A.

At the time that shot penetrated the house my wife and myself were looking out of the window facing on Elizabeth street, and there were a number of shots, I don't know how many. I will say sure of a high-powered gun, that I could almost feel the concussion of the shot. At the time my right hand was on my wife's shoulder, and we were both looking out of the window together, and there was some dust fell on the back of my hand, and she said: "Let's get away from here; there is something wrong."

Q. Please speak a little louder.—A. She says, "Let's get away from here," and my hand slipped off of her nightgown, and I felt a lot of little splinters, and I didn't know until the next morning that the house had been pierced by a bullet; but I knew that there was some dust, or something. I thought it was the percussion of the air, which would drive something loose, although those buildings are new. I couldn't tell what it was.

Q. Now, you have only one eye, I believe?—A. That is all; only one good one, and that is not extra.

Q. Are you quite clear, Mr. Rendall, that those three to five men that you saw there, that you speak of first, were colored men and soldiers, the men that you saw inside of the wall?—A. Positive that they were; yes, sir.

Q. Did you see any of the soldiers when they returned, if they were soldiers that you saw?—A. I did not. I did not. I was looking out of the window until the commissioned officer assembled the men and was calling the roll, and I did not see a man returning.

Q. Did you have any prejudice against the colored soldiers coming there?—A. No, sir. On the contrary, I was in favor of them coming there.

Q. You had no prejudice against them?—A. None whatever.

Senator WARNER. I do not want to ask him anything more.

By Senator FORAKER:

Q. Senator Warner asked you if you had but one eye. Do I understand that you are blind in the other eye?—A. Yes, sir.

Q. How long have you been blind in this one eye?—A. I have been blind in this right eye since the year 1866.

Q. Did you have any accident at that time?—A. Well, yes. There was a splinter from a piece of steel struck my eye.

Q. And destroyed your sight, did it, in that eye?—A. Yes, sir.

Q. I notice that you wear glasses. How is the strength of your other eye?—A. Well, I couldn't estimate that; it has come on me so by degrees, my sight failing; but apparently I can see, with proper glasses, as well as I ever could. I can read the finest print, and I can see at a long distance nearly as well as I could when I was 35 or 40 years of age. If there is a defect, it has come on me so gradually that I can hardly appreciate it.

Q. How long have you been wearing glasses on account of the failure of your eyesight?—A. I have been wearing glasses continuously since the winter of 1880.

Q. Since the winter of what?—A. Since the winter of 1880.

Q. And I understand you to say that you are now 72 years of age?—A. Yes, sir.

Q. What kind of a night was this?—A. Well, it was a very still, starlight night, without any moon. It was what you might call a medium dark night.

Q. A medium dark night?—A. Yes, sir.

Q. I understood you to say it was about 35 feet from the window where you were looking out, across Garrison road or Fifteenth street, to the garrison wall?—A. Yes, sir.

Q. About 35 feet?—A. Yes, sir.

Q. How far is it from the window out of which you were looking to the gate—the large gate?—A. Well, it would be at an angle from my window, off, and I suppose probably you might add 10 feet to that; say 45 feet.

Q. That would be 45 feet?—A. Yes, sir.

Q. Now, tell me how far it is from that window up to the mouth of that alley, opposite which you saw the men get over the wall?—A. To the mouth of the alley, the western edge of it, it is 118 feet.

Q. One hundred and eighteen feet?—A. Yes, sir.

Q. From this window that you were looking out of, up to this point where they got over?—A. Up to the center of the alley it would be about 150 feet.

Q. About 150 feet?—A. Yes, sir; to the center of the alley.

Q. Yes.—A. Those lots there are 120 feet.

Q. Well, from the window that you were looking out of, down here at the corner of Fifteenth and Elizabeth streets, up to that point would be, you think, 150 feet?—A. Yes, sir.

Q. Are there any lamps after you leave the gate, going up Fifteenth street in that direction, until you come to Washington street?—A. I don't know that I understand you exactly.

Q. Are they any lights of any kind after you leave the gate here, where there are two lights, as I understand you to say, until you get up to Washington street, on Fifteenth street?—A. I know there is a lamp-post on this corner up here [indicating].

Q. That corner is the corner of Washington street, you mean?—A. On this corner here [indicating].

Q. Which corner do you mean? Take this rod and point to it.—A. The lamp-post is on private property, and I don't know that I ever saw the lamp lighted. It is here [indicating].

Q. It is never lighted?—A. No, sir.

Q. It is not marked on here at all?—A. No, sir.

Q. The mere fact that there was a lamp-post there would not help you much in looking, unless the lamp was lighted?—A. No, sir. That is not city property; it is private property.

Q. You say you saw from three to five men down here in the rear of the barracks next to the river, as I understand you?—A. Yes, sir.

Q. About midway between the wall and the barracks?—A. Yes, sir.

Q. Can you give us the distance from the wall to the barracks?—A. It is about 75 feet.

Q. Seventy-five feet. So that they would be about 37½ feet from the wall, inside?—A. Yes, sir.

Q. About what point of the barracks were they opposite when you saw them?—A. When I looked out of the window and saw those men first they were about where that letter "A" is [indicating on map].

Q. They were not in the rear of D Company barracks at all?—A. They were moving from that way, though.

Q. Moving as if they had come up from that way?—A. Yes, sir.

Q. Were they in the roadway?—A. Yes, sir; they were off of the grass. They were in the roadway.

Q. So that they were not in the rear of any barracks at all?—A. In the rear possibly; no.

Q. They were simply in that road?—A. Yes, sir.

Q. But you saw them passing eastwardly as if going up between B barracks and the wall?—A. Yes; exactly.

Q. I understood you to say that you looked out a moment and then went up to another window. How far did these men go when you were looking at them?—A. I couldn't say exactly. I would say they went up to there [indicating].

Q. You saw them go up that far?—A. No, sir; I did not. They got up but a very short distance, and before they had passed the line of this street here [indicating] there was this shot that called my attention, of a high-power gun, that I took to be up here somewhere [indicating].

Q. Indicate as near as you can where that shot was.

The CHAIRMAN. Just one moment. The stenographer will have a record which will not mean very much, from this, I am afraid. Can you not fix the location more definitely?

By Senator FORAKER:

Q. The shot which I understood you to locate, and now to call attention to, was the shot that was elevated?—A. No, sir; that was the shot that changed my view.

Q. Then you ceased to look at these men?—A. Yes, sir; then I was looking up there. After I ceased looking at these men, that shot was fired, and that called my attention, and I looked up there and saw these men; I couldn't tell who they were, but they were soldiers, and my attention was called there because they were moving.

Q. Let us locate those men and find out how many there were of them you saw when you looked to your left. Where did you see them?—A. The men I saw to the left, they were about where that letter "A" is.

Q. They were about, near, the middle of barracks B?—A. Yes, sir.

Q. And were they moving toward the alley?—A. They were moving, and appeared to be assembling together, coming into one place.

Q. How many shots had you heard up to that time? I understood you to say you were asleep when the firing commenced.—A. Yes, sir.

Q. Do you know anything about how many shots were fired before you got awake?—A. No, sir; I do not.

Q. You do not?—A. No, sir.

Q. All you know is that you were awakened by firing?—A. Yes, sir.

Q. Now, what kind of shots were they?—A. I couldn't say.

Q. Out of what kind of an arm were they fired?—A. I think they were pistols.

Q. Yes; you have so testified, have you not, that they were pistol shots?—A. I don't know whether I have or not; but that was my impression at the time, that they were pistol shots, because they were so close together that it was peculiar, and I took more notice of it.

Q. You testified before the citizens' committee, did you not?—A. No, sir; there was no testimony taken—

Q. You made a statement, did you not?—A. Yes, sir.

Q. Did you not state before the citizens' committee the following day after this occurrence, or within a day or two afterwards—A. Maybe so, sir.

Q. (Continuing.) That these were pistol shots?—A. No, sir.

Q. You did not?—A. No, sir; I do not think so.

Q. We will see, after a while. Then you testified before Mr. Purdy?—A. Yes, sir.

Q. And you told him that these were pistol shots, did you not?—A. I told him that the shots that I saw the flashes from were pistol shots.

Q. Which were they?—A. They were the shots that were fired from the group of men that were there, about where that letter "F" is on the map [indicating].

Q. Will you not point to where that "F" is?—A. About the middle of B barracks [indicating on map].

Q. You heard that shot? You did not see that one?—A. Yes, sir.

Q. That caused you to turn your head to the left?—A. Yes, sir.

Q. Then, after you turned to the left, you saw those two shots fired?—A. Yes, sir; I saw them, and they were elevated, and that was what made me think it was an alarm of fire.

Q. You testified to that before the citizens' committee?—A. Yes, sir.

Q. And also before Mr. Purdy, did you not?—A. I think I did.

Q. No; you do not pretend to locate exactly where those two shots were fired from; that is, to an absolute certainty? You simply think it was in that neighborhood, I understand—A. I can locate it within a few feet.

Q. Locate that on this map as nearly as you can.—A. It was over about the center of barracks B, and halfway between the barracks and the wall.

Q. Did you hear any voices?—A. I heard voices, but I do not wish to say to-day what that was, because my hearing is imperfect, and it is almost impossible for me to be sure, and what I am not positive of, gentlemen, I do not wish to say.

Q. Well, you did state before the citizens' committee, did you not, without any qualification of that kind, that you heard voices?—A. The citizens' committee?

Q. Yes.—A. I am not positive. I never have seen a report of the citizens' committee, anything that I said there. I don't know what I did say.

Q. Did you not testify before the citizens' committee, and also again before Mr. Purdy?—A. Yes, sir.

Q. That some one said "There he goes?"—A. Yes, sir.

Q. And you stated before the citizens' committee, did you not, that he said it in a low voice?—A. Yes, sir.

Q. What did you say about the tone of that voice before Mr. Purdy?—A. I said that I was under the impression that I heard that remark, "Here we go," or "There they go." But what it was I do not know.

Q. How far were those people away from the window where you were stationed when that expression was used?—A. Betwixt 90 and 100 feet, I suppose.

Q. You have just told us, have you not, that they got over the wall at a distance of about 150 feet from you?—A. Yes, sir.

Q. And this was spoken just as they got over the wall?—A. No, sir; it was spoken before they made the move to go over the wall. These men were grouped together, apparently undecided what to do. I just glanced at them, and then that expression was made, and they made a break for the wall.

Q. Now tell us how many shots you heard after you got awake, before you saw these men down at the gate.—A. How many shots?

Q. Yes.—A. I would not be positive of hearing only two shots, but I saw the men after looking out of the window.

Q. Then did you hear any other shots after you saw those men until you heard the one shot that caused you to look to the left?—A. No, sir; I did not.

Q. And then after that you saw two other shots?—A. Yes, sir.

Q. That seemed to be fired in the air?—A. Yes, sir.

Q. I understood you to say that all of these shots you thought were fired from pistols.—A. No, sir.

Q. Which ones were not?—A. The only two shots that I thought at the time were fired from pistols I thought were fired from pistols simply because they were fired so close to the man's head who held the weapon, and it was just about as fast as he could pull a self-cocking pistol—pull the trigger.

Q. Did you testify at any time that you heard five shots down below you toward the river?—A. Yes, sir.

Q. When was it you heard those five shots, and where do you locate them?—A. Well, you have only taken me to the time of the pistol shots. During the time that the men were moving there were two other shots fired, at least, but I am not positive about there being any more than two; and they were fired out of my line of vision, so that I could not see the flashes. I only heard the reports.

Q. The only shots you saw were the two?—A. I saw either the reflection of the flash or the flash of every shot I have mentioned of the five shots, except the one I speak of as being previous to my looking out of the window.

Q. Yes; but what I want to get at is, you can not locate the shots definitely that you only saw the reflection from?—A. No, sir.

Q. The only two shots you saw the flashes from when they were fired were those fired in the garrison, up in the neighborhood of where these men were assembling?—A. Those were the only ones I could locate positively where they were fired.

Q. Did you hear any voices crying out at the time those shots were fired?—A. No, sir; I thought I heard a mumbling—talking in a suppressed voice—but I could not distinguish anything.

Q. They were a considerable distance from you? Did you see anybody come out of the gate?—A. No, sir.

Q. You did not see anybody there?—A. No, sir.

Q. And you got up and looked out almost as soon as the firing commenced?—A. Yes, sir.

Q. And you were looking right at the gate?—A. Yes, sir.

Q. And if there had been a group of men outside of the gate, at the mouth of Elizabeth street, right under your corner, you certainly would have seen them, would you not?—A. Very likely; yes, sir.

Q. Did you see any group of men down on Fifteenth street in the neighborhood of your residence, the telegraph office, assemble and then separate, one part going down Elizabeth street and the other part going up Fifteenth street?—A. You mean during the time of the firing?

Q. Yes.—A. No, sir; I did not.

Q. You did not see anything of the kind that night?—A. No, sir; I did not.

Q. Yet you were so situated that you could hardly have helped seeing that if that had occurred. Can you tell us what is the candlepower of those lamps over the gate?—A. Sir?

Q. What is the candlepower of these lamps over at the gate?—A. Accurately speaking, I could not say, but I judge they are 50 candlepower.

Q. How much?—A. Fifty candlepower, each one.

Q. Yes. Now, can you tell us how many of these shots you heard, altogether, inside of the garrison wall?—A. How many I heard inside of the garrison wall?

Q. Yes; that you thought were fired inside.—A. Positively, I can not swear that I heard more than five.

Q. You can not swear that you heard more than five?—A. No, sir.

Q. Did you not, on another occasion, swear that you heard as many as thirty?—A. I could not swear. As I am telling you now, I can only swear to the shots being inside or outside of the garrison wall that I either saw the flashes of or the reflection of the flashes of. I heard a good many shots, but I could not swear that they were inside or outside of the garrison wall.

Q. I will find what I am looking for on that testimony in a minute. You are entirely positive that at the distance you were from where those three to five men were you could tell that they were colored soldiers and that they were dressed in uniform?—A. Yes, sir.

Q. They were inside of the gate, as I understood you, a distance of perhaps 37½ feet; that is midway between the wall and the line of the barracks?—A. Yes, sir.

Q. So that that would be added to the 45 feet that you said the distance was from your window to the gate?—A. Yes, sir.

Q. Which would make the distance that they were away from you 75 or 80 feet?—A. The distance from me; but the distance from the lights to where they were could not be over 40 feet.

Q. Yes. They were 40 feet away from the lights?—A. Yes, sir; not more than that.

Q. Seventy-five or 80 feet away from you?—A. Yes, sir.

Q. And then the other men were how far, where you saw them assembling; how far from you?—A. Not exceeding 100 feet.

Q. About 100 feet to where they were assembling?—A. Yes, sir.

Q. And you could see men assembling. You do not pretend to tell whether they were white men or colored men?—A. No, sir; I could not tell positively.

Q. Did you see anybody else about there at that time?—A. No, sir; I did not.

Q. Do you know the man who was the scavenger at the fort at that time, Tamayo?—A. Yes, sir; but I am well acquainted with him. He has been connected with my family ever since he was a little kid.

Q. He has been connected with your family?—A. Yes, sir.

Q. He is a good, reputable man, is he?—A. His sister is a servant of mine.

Q. Yes. He is a truthful man, is he not?—A. Well, I always had that opinion of him.

Q. You always had that opinion of him? He bears that reputation, does he not, in the community at Brownsville?—A. Yes; I believe so.

Q. Now, did you see anything of him there at that time?—A. No, sir.

Q. You did not see him?—A. No, sir.

Q. Did you hear his cart?—A. I don't remember of seeing or hearing anything of the scavenger that night, but it was a common thing for me to hear him, and the movement of his cart.

Q. He has an iron bed on his cart, has he not?—A. Yes, sir.

Q. That rattled and made a good deal of noise when he moved?—A. Yes, sir.

Q. Particularly when he was moving rapidly?—A. Yes, sir; it is pretty noisy.

Q. And if he was there moving off, making a rattling noise, you did not either hear or see him?—A. I did not that night, sure.

Q. That is the only time we are concerned about here.—A. No, sir.

Q. When did you find out that he claimed to have been there?—A. No, sir.

Q. I say when did you find out that he claimed to have been there?—A. I never did find it out.

Q. You do not know anything about it?—A. No.

Q. You do not know whether he was there or not?—A. No, sir.

Q. Now, did you see a sentinel on duty there?—A. I did not.

Q. You did not see anything of that?—A. No, sir.

Q. You saw two shots fired in the air?—A. Yes, sir.

Q. Do you know what kind, or did you hear the reports of those shots so that you could tell us whether they were fired out of a high-power gun or were pistol shots?—A. I do not know that I could say that they were fired out of a high-power gun, any more than the extra report; that is, the noise of them.

Q. So that you can not tell us whether these shots that you saw fired in the air were fired out of a high-power gun or whether they were fired out of a pistol?—A. No; I can not say positively, but I do not think they were fired out of a high-power gun.

Q. All you can say is that you saw shots fired into the air?—A. Yes, sir.

Q. And you saw two?—A. Yes, sir; two.

Q. And one was fired immediately before you saw those two, which caused you to look to your left?—A. I only saw the reflection of that shot.

Q. I understand that. You heard three shots, though?—A. Yes, sir.

Q. And the first shot you heard, which caused you to turn to the left, was fired at the same place, as nearly as you could make out, that you saw the two fired?—A. Yes, sir.

Q. The same man evidently fired all three of them, did he not?—A. No, sir; I think not.

Q. You think not?—A. No, sir; because my eye was on the group of men just as those two shots were fired, and probably the shot that

brought my attention to it, if it was fired at all, it must have been fired by some other man a little above, because the sound was not the same.

Q. Have you a distinct recollection of the difference in the sound of the first shot and the other two shots?—A. The two shots that I saw the flashes of were the same as a pistol shot would be, and the others were not.

Q. According to your judgment all those first shots were pistol shots, were they not; that is, the shots that awakened you?—A. They might have been: yes, sir.

Q. Did you not testify that they were?—A. I presume I did.

Q. If the first shots that awakened you were pistol shots, and all these other shots were pistol shots—I mean down to the last two that you have spoken of that were fired in the air—then there were no high-power shots fired at all, were there, until after these men started for the wall?—A. I could not say; I am not expert enough in the different reports—in the reports of different arms—to tell, but my impression at the time was that the shots I saw fired, the flashes from which I saw, were from pistols.

Q. You thought they were from pistols?—A. Yes, sir; that was my impression.

Q. Tell us, as near as you can, how many shots had been fired, altogether, when you saw these two shots fired into the air?—A. They all might have been—

Q. No; but how many altogether were fired before you saw those two shots fired into the air?—A. I can not remember; only three shots that I heard until the two shots that—

Q. On page 16 of your testimony before the Penrose court-martial you testified as follows—I will read all this to you:

Q. Did you tell Major Blocksom and Mr. Purdy how many shots were fired?—A. I think I estimated the number of shots fired—in the garrison before they went over the wall—at 30.

That is correct, is it? You testified to that, did you, before the court-martial?—A. The difference between the two questions is that I am answering now as to shots that I saw as well as heard. I do not know how many shots were fired, and I do not know how many shots were fired outside in the town. I am stating now the shots that I saw the flashes of, or the reflections of, and to the best of my belief there were only five.

Q. Only five?—A. Yes, sir; five of the shots that I saw the flash

Q. Where was the next firing after they got over the wall?

Q. Only five before they got over the wall, that you heard?—A. Yes, sir; heard and saw together.

Q. What is that?—A. That I heard and saw.

Q. Well, that you heard and saw fired?—A. Yes, sir.

Q. Where was the next firing after they got over the wall? Where did you locate that?—A. I could not locate it; it was up back of my house, apparently up the alley.

Q. Was it pretty close to the wall or down in the alley some distance?—A. I judge it was, but I could not tell.

Q. How long did you remain at your window?—A. I remained at the window until the officer came down under the rays of the light at the entrance and after the bugle had sounded the call for assembly and the men commenced to assemble under the officer's charge.

Q. Did you see the men come out and take position behind the wall—the companies?—A. Behind the wall, you mean, inside?

Q. Inside of the garrison?—A. Yes, sir.

Q. You saw those companies come out?—A. Yes, sir.

Q. One company took position on the lower side of the gate, did it not, behind the wall, and another right in front of you?—A. Yes, sir.

Q. Behind the wall?—A. Yes, sir.

Q. You saw all that?—A. Well, I just glanced at it, like I did everything else. I could not tell exactly.

Q. You had no trouble at all to see the men that distance forming and marching around there?—A. I didn't know at the time that there was any cause for me to be particular about looking at things. I supposed those men, both the soldiers and the officers, knew what they were doing, and there would be no question about it, and I just glanced at them, and I thought after they had gone over the wall that they were chasing a deserter or a thief, or something of the kind, and I had no idea that anything would require me to remember and state the facts that happened.

Q. Still, it was a very unusual occurrence, was it not?—A. It was, so far as the pistol shots—the shots—were concerned; it was very unusual. But firing a pistol at Brownsville for a fire alarm is a common thing.

Q. You fire pistols for an alarm of fire?—A. Yes, sir. If there is one of these little buildings out in the outer edge of the town catches fire, a policeman will fire his pistol. It is a signal of fire there.

Q. Now, tell me about this firing. You saw the soldiers come and take up position there. Was the firing still going on when they came and took up position behind the wall?—A. No, sir.

Q. That was over, was it?—A. Yes, sir.

Q. How long had that been over?—A. Well, I don't suppose it was over ten or fifteen minutes after the last shot I heard uptown before they commenced to call the roll.

Q. You heard them calling the roll?—A. I did.

Q. Where was that roll called?—A. When?

Q. Where was it? Where were they calling the roll?—A. Well, the group of men, the company, I suppose, was about in the same locality as where those three men were when I first looked out of the window—that is, they were under the rays of the lights, so that they could, I suppose, stand there and read the names of the men.

Q. Did you not see a man there with a lantern?—A. No, sir; I did not.

Q. You did not see any lantern?—A. I did not see any lantern.

Q. You heard the roll being called?—A. I did not see any lantern.

Q. Did you hear the men answer to their names as their names were called?—A. I suppose I did, but I would not be positive about that.

Q. Can you tell how many men answered to their names? About how many?—A. There were the company, I think. I do not think there were more than a company, one company. The roll was called and they formed and walked out.

Q. That company was on this lower side of the gate, was it not, that called the roll?—A. Right in the roadway.

Q. What?—A. Right in the roadbed.

Q. The company then was stationed in the roadbed?—A. Yes, sir; that is where the squad was that answered to their names as they went out along with Captain Lyon.

Q. Did you see the company march in and take position behind the wall?—A. Yes, sir; I did.

Q. They did not stop by the gate, did they?—A. No, sir.

Q. They took position behind the wall, and then the roll was called, was it not?—A. They assembled from different quarters, I suppose, in the ranks, and their names were called and then they formed in line and passed through the gate out into the town.

Q. Now, I want one other thing, to know whether we are to understand that you wish to recall the statement, if you have ever heretofore made it, that you heard some one say, "Here we go," or "There they go," before they went over the wall?—A. That was merely an impression; I will not say that I was correct or incorrect. I heard words louder than had been spoken before, and it sounded that way to me.

Q. You heard what?—A. I heard words and language louder than anything I had heard before, and it sounded like "Here they go" or "Here we go."

Q. You testified the first time before the citizens' committee that that was spoken in a very low voice. The next time you testified, before Mr. Purdy, that it was spoken in a very loud voice, and you referred to it as the loud order, and you said the language was "Here we go" or "There they go." Now, if it is anything more than an impression—A. It would have to be a loud voice for me to hear it—louder than they could have been talking before, or I would have heard something else.

Q. Yes. Now, if they were away from you a distance of 100 feet when that was spoken, it would have had to be called out pretty loud, would it not?—A. Yes, sir; I think so.

Q. That occurred to Mr. Purdy, did it not? He thought that it would have to be pretty loud, did he not?—A. Yes, sir.

Senator WARNER. Now, I submit that that is not proper.

Senator FORAKER. I submit that I have a right to find out whether he did or not. The witness said he did.

Senator WARNER. I submit that it is not proper.

Senator FORAKER. What is not proper?

Senator WARNER. The statement of what occurred to Mr. Purdy. It does not appear, in the first place, that the witness knows anything that occurred to Mr. Purdy, and I submit that in all fairness the question is not proper. It has a tendency to reflect upon Mr. Purdy, and I do not think that that should be done.

Senator FORAKER. I do not think the Senator has any right to interpret my purpose one way or the other. The question is whether I have a right to call on this witness for an explanation as to why he said at one time this expression was made in a low voice, and at another time that it was made in a loud voice.

Senator WARNER. To that I have no objection; but the question was more than that, I submit.

The CHAIRMAN. I have the first of these places in the testimony mentioned by you here, at the foot of page 6 and on page 7. Where is the other place?

Senator FORAKER. I will read from pages 75 and 76 of Part 1 of Senate Document No. 155.

By Senator FORAKER:

Q. At page 76 I find this testimony. I will read you the whole of this, beginning on page 75:

Q. Tell what you saw from the time your attention was first attracted.—A. Well, I was sleeping about 10 o'clock and was woke up by pistol shots fired close to my house, about 60 feet from garrison, inside of garrison wall. I got up and went to the window, my wife with me. We could see men moving back and forth inside the garrison wall, and they were shooting. One man in particular. I watched the shots, seeing the fire leave the pistol, and it was elevated up in the air, and was being fired about as fast as a man can move his finger. There were other shots, but I did not notice them.

Q. What time was that?—A. About 10 o'clock, I think; though I did not strike a light to look. The next move that I saw and what I heard was one word—there was a good deal of talking, but very low—one man said "There he goes," and they made a move for the wall and passed out of my sight.

Q. Did they have guns in their hands?—A. I could not tell.

That was your testimony before the citizen's committee, as I understand it. Now, before, Mr. Purdy, you testified, according to the report that we have before us, at page 15 of Senate Document 155, Part 2, as follows:

Q. While you were looking out these other windows, did you hear any shots fired in the meantime?—A. I could not say about that. I don't remember certainly of hearing more than five shots fired inside the garrison wall before the men came to the wall and got over.

Q. After you had looked out of these windows, looking for fire, where did you go then?—A. I returned back to the east window, looking out upon the fort.

Q. What did you see then?—A. I saw men huddled together and moving around pretty fast.

Q. Did you hear any talk?—A. Talking lowly—suppressed sort of voice.

Q. About how far were they away from you at that time—approximately?—A. About 60 feet.

Q. Did you hear anything said distinctly?—A. Only the words, "There we go," "Here we go," or something of that kind.

Your answer there is that you heard those shots distinctly. I understand you to say now that you have only an impression that you heard something like that?—A. I never asserted that I had anything more than an impression.

Q. You never said it?—A. No, sir.

Q. So that if you are reported in this Purdy testimony as testifying that you heard it "distinctly," that is a mistake, is it?—A. I say distinctly that I never made any such assertion—that I was positive.

The CHAIRMAN. He says he thought it was right in the same place. Senator FORAKER. I am not through with this.

The CHAIRMAN. On page 7 is another place where this is mentioned.

By Senator FORAKER:

Q. I will read further from the testimony on page 15 of part 2 of Senate Document 155:

Q. Did you hear anything said distinctly?—A. Only the words "There we go," "Here we go," or something of that kind.

That was your answer?—A. Yes, sir.

Q. Reading further:

Q. What happened then?—A. Then they made a break for the wall abreast of the alley.

Q. That is the alley between Elizabeth street and Washington street?—A. Yes, sir.

Q. Were they at that time right opposite that alley?—A. No, sir; they were a little this side [pointing]—a little toward Elizabeth street when that expression was made that I recognized.

Q. Then what happened?—A. Then they started for the wall. I could see them vaulting the wall, but after they got over the wall and into the street I could not tell which way they went.

I do not want to read all that. I want to go to the next place, on page 17:

Q. And how far were these men from you at the time you heard that voice?—A. They were close onto 60 feet—might have been a few feet more or a few feet less.

Q. So you could hear that voice distinctly?—A. He spoke loud. Thought it was a command given in a loud voice.

Is that testimony correct?—A. Yes, sir.

Q. So you did hear this voice, "There he goes" or "Here we go," spoken in a loud voice like a command—you have a distinct recollection?—A. I did; yes, sir; it was a loud voice or I could not have heard it.

Q. You could not have heard it?—A. At that distance.

Q. What are we to understand as to your statement a while ago that it was only an impression on your mind that you heard something of that kind?—A. Only an impression that I caught the exact words. I heard something.

Q. You did hear a command of some kind?—A. Yes, sir; what I thought was a command.

Q. Given at a distance of 60 to 100 feet away from you?—A. Yes, sir.

Q. Now, on page 18, you were asked: "Q. And your best judgment is that that was the same man whom you heard give the command inside the wall that night?—A. It was my impression that this was the same voice and the same man that I heard speak, giving the loud order and saying: 'Here we go' or 'There they go.'" That is correct, is it?—A. I think so; yes, sir.

Q. According to your testimony these men who went out to shoot up the town commenced by firing inside the reservation, attracting everybody's attention, waking up the town, and then after they had everybody up and at the windows looking out as you were, they gave a command in a loud voice, loud enough to be distinctly heard 60 to 100 feet away by a man whose hearing is bad? All that preliminary to jumping over the wall and commencing their work.

Senator WARNER. Is that intended to be a question?

By Senator FORAKER:

Q. Is that true?—A. No, sir; you assume something there that I object to.

Q. What is that?—A. I did not know at the time that I made this statement before the citizen's committee that anybody, not even a soldier that was in the garrison at the time, would deny that they had went out themselves and done that, and I was satisfied that some of the officers there had acknowledged it before I ever went to the citizens' committee. I had no idea that anybody would raise a question in regard to who done the shooting when I made that statement.

Q. How many were there of these men altogether, according to your present best judgment, who got over the wall?—A. Why, I can only say positively that I saw eight.

Q. You saw eight?—A. Yes, sir.

Q. How did you arrive at that conclusion, at that number?—A. Simply because they were so close. They were nearer me and nearer the light than the others that went over above. There is a little building there—

Q. I mean how many got over the wall altogether.—A. That is what I am speaking of.

Q. Eight got over the wall?—A. The only ones that I am positive that went over the wall, that I could judge by the number, was the group that was next to me, and there was eight in that crowd.

Q. About eight or exactly eight—did you count them?—A. Sir?

Q. Did you count them so that you know?—A. No, I did not count them. It was just a glance at them. I estimated the number.

Q. You testified before the court-martial that you could not tell anything about what kind of men were going over the wall—"only I supposed it was the same men that I saw here down below." That is correct, is it?—A. Yes, sir, that is a fact. As I stated before, I had changed from one window to another while looking at these men, and I could not identify the same men when I saw them again, though it was not more than a few seconds.

Q. Notwithstanding your weak eyesight, having only one eye, and notwithstanding it was a pretty dark night, as I understand, you say you think you saw distinctly enough to testify positively about all these things, do you?—A. Yes, sir; I am positive that they were colored men wearing the United States uniform.

Q. What kind of uniforms did they have on?—A. They wore the fatigue uniform.

Q. How were they dressed? That is what I want to get at.—A. I could not tell you how they were dressed. If they had been dressed out of the common I would have noticed it so that I could describe it, but they were dressed in the ordinary fatigue uniform. I could not say. Some of them, I suppose, had coats, and some in their shirt sleeves.

Q. You suppose some had coats and some were in their shirt sleeves, but do you know whether they had on blouses or coats or did you notice whether they were in their shirt sleeves?—A. I could

not tell what the color of their shirts was?—A. No, sir; not by the impression that I got that night. I could tell you what they ordinarily wore, and state that that was the case, but I am telling you now positively the truth, what I can conscientiously say is what I saw and know, and no more.

Q. That is the reason I am trying to get it now. Can you tell us whether they were wearing leggings at that time?—A. Sir?

Q. Did they have on their leggings?—A. I could not say.

Q. You did not notice that?—A. No, sir.

Q. Did they have on caps?—A. I don't know that.

Q. Did you notice whether they had on hats?—A. I don't think they had on caps. If they had had on caps it would have been something out of the ordinary and I would have noticed it.

Q. That would have been out of the ordinary?—A. Yes, sir.

Q. But you have no clear recollection whether it was hats or caps?—A. It is not common, in a hot southern country in August, for men to have caps.

Q. You saw those other men as they passed across the road, within 40 feet of the light, you say, and only 75 feet away from you. Can you tell us just how they were dressed?—A. No, sir.

Q. Or what they were carrying?

Senator WARNER. I think, Senator, your question implies that the men passed within 40 or 50 feet of the light.

Senator FORAKER. He said they did, inside the gate, about midway between the wall and the line of the barracks, which would have been $37\frac{1}{2}$ to 40 feet from the light. The witness stated that he thought they were about 40 feet beyond the lamp, and that it was 35 feet from him to the lamp, making 75 feet altogether. That is correct, isn't it?

A. Yes, sir.

Senator FORAKER. I believe that is all.

By Senator WARNER:

Q. Just one or two questions, Mr. Rendall. Something has come out on cross-examination about a party applying to you to rent a house to some man. Was there a colored man applied to you to rent a house from you, who was dressed in the uniform of a United States soldier?—A. Yes, sir; he was a sergeant of one of the companies, first sergeant. That is to say he represented himself to be. I don't know positively.

Q. You have no knowledge, of course, only what he represented himself?—A. That is all.

Q. What was it he wanted to rent from you?—A. He wanted to rent a small house in that block, on the alley side of that block where the telegraph office is, which I was using at the time as a storage room. He stated that his reason for wanting to rent a place down there in what is called the respectable part of the town was on account of his wife, whom he did not want to send up where the other men had their wives, in what is called the "Tenderloin" district up there. He appeared to be a very respectable sort of a man, a man about 40 years of age, and I had a good deal of conversation with him, and he came to me for three days in succession, wanting an answer, said his wife was not here and he wanted to send for her, and I had talked with him so much that when this order was given, these words spoken, that I thought I understood, it sounded like his voice. That is the reason that I spoke of it.

Q. What conversation did he have with you, if any, about not wanting the house, if at all, and what reason did he give, if any?—A. That was on the 11th—

Q. Of August?—A. The 11th of August. He came to me in the morning very early. I am an early riser usually, and this man was up very early, and he came to me as I was coming from market, and he said, "Mr. Rendall, I have come to tell you that I do not want that house, I can not take that house, because I am not going to bring my wife here. I don't think we are going to stay here." I felt relieved, because I had partly promised the house to him, but I did not want to put a family in it, because I had to move so much stuff out of it. He did not give any reason, stating that he was not going to bring his wife here, that was all, and he did not think they would stay here.

Q. Was he wearing the uniform?—A. Oh, yes; the United States uniform. He had three stripes on his arm when he had his coat on, but the men there, when they are not on parade, they went in their

shirt sleeves nearly all the time. Every time, except once, that I was speaking to him, he was in his shirt sleeves.

Q. Did you make any effort afterwards to locate that man?—
A. No, sir.

Q. After this shooting affray?—A. No, sir.

Q. That was on the 11th of August he came there?—A. That was on the 11th he came to me to notify me that he did not want it.

By Senator FORAKER:

Q. You would have known that man if you had seen him, would you not?—A. I would have known him in his uniform clothes; yes, sir; any place.

Q. Did you tell Mayor Combe about this incident?—A. I don't think I would know him in his citizen's clothes unless he would speak to me. If he would speak to me, I would know him.

Q. He was a sergeant?—A. He represented himself to be.

Q. Had distinguishing marks on his arm?—A. He represented himself as a sergeant and as being in the Spanish war in Cuba.

Q. And there was great anxiety to identify somebody connected with the shooting, was there not?—A. I don't understand.

Q. I say, there was great anxiety on the part of everybody to find out who did this shooting, was there not?—A. Yes, sir.

Q. And yet you made no effort to identify this man?—A. No, sir.

Q. Although he was right there in the barracks?—A. I never made any effort to identify them, and I did not state before the citizens' committee all that I actually saw, and I will tell you why. As I have stated, on the borders of the Government property I have about \$10,000 worth of property there, and nothing is insured, and at the time that the citizens' committee requested me to come before them the guard had been established alongside the wall, men along about probably 30 feet apart, each one with a gun, and we did not know at that time that they were going to be moved away from there, and I did not want to give any reasons. In fact, I made up my mind that if I had sought to go and identify that man or sought to state before that citizens' committee that they were soldiers that my life would not be worth anything.

Q. You think the soldiers would have killed you, do you?—A. I do; yes, sir.

Q. You had that opinion at that time, and that restrained you from telling everything?—A. I was a little cowardly about that, and until after they went away I never said to anybody, outside of my wife, that I believed, if I had had a suspicion of anything, that those men that I saw before those lights were doing anything, or that I would have been requested afterwards to identify them I could have picked the men out, they were so close to that light; but it was just a glance, and it was not impressed on my mind.

Q. Did you see those men committing any act of violence while they were there that led you to think they were dangerous?—A. No, sir; not until after the guard was placed there, and we found out next morning what had happened, and was asked by the citizens' committee to meet them, and I gave them what little testimony I had. The men previous to this time, according to my estimate of a soldier's behavior, had behaved excellently.

Q. That is, they behaved excellently down until the night of the 13th?—A. Yes, sir; excellent. They were as fine a lot of men, physically, as I ever saw in uniform.

Q. And fine in their behavior too, were they not?—A. Yes, sir; and I never saw a drunken soldier while they were there.

Q. Not a drunken soldier while they were there?—A. No, sir.

Q. And you have lived in the vicinity of that garrison for how many years?—A. For years. My old homestead is farther uptown.

Q. You have lived in Brownsville?—A. I have lived there while the Twenty-sixth was there, all the time.

Q. You have lived there for the last forty years, haven't you?—A. Yes, sir; I have been living in a garrison town, you may say, for forty years.

Q. And you have seen all the soldiers that have come and gone during that time?—A. Yes, sir.

Q. And the conduct of those soldiers compares favorably with all of them?—A. Yes, sir; as good as any I ever saw, and they were as fine a lot of men.

Q. And you did not have this alarm about being in danger until after the shooting?—A. No, sir.

Q. After you heard that?—A. No, sir.

Senator SCOTT. Will it be any interruption if I ask a question here?

Senator FORAKER. Certainly not.

By Senator SCOTT:

Q. What motive do you suppose the colored soldiers had, or do you know of a motive, for shooting up the town?—A. I do not know of any motive personally, as far as my own knowledge is concerned; I don't know anything about it, only what I have heard. Now, in this block, in the lower end of Elizabeth street (I own nearly all that block) in that corner house there is a man lives by the name of Cowen. I think he is about a three-quarter blood Mexican himself and he is married to a Mexican woman, very light complexioned, and he has a lot of small children, mostly girls; but they are boyish sort of things, and it is right close to the garrison wall, and they are always mixing around among the soldiers; they are rather brisk, you know, in their way of talking, and one of those little girls, I think she is about 12 years of age—now I heard this conversation myself, some of it—they were talking to a soldier, and I think the man was on guard; I don't know, but he was at the wall, and he asked her if she was a half-blood Mexican or a half-blood nigger, something of that kind, and she answered back something, and he said, "Well, you look like it." "Well," said she, "you look like an ape." That was the only thing that I know of why they shot those shots in that town, simply because this little girl called him an ape.

Q. I could not hear all of that statement. Before I go ahead with that let me ask you a question before I forget it. This sergeant who came to rent this house, what was it he said about his wife, that his wife was not there and he had concluded not to bring her there, was that it?—A. I don't know as I got that.

Q. The sergeant who came to see you about renting your house; what was it he told you, that he was going to bring his wife, and finally he came back and told you he had concluded not to bring his wife?—A. Yes, sir.

Q. That was on Saturday, the 11th?—A. Yes, sir; the 11th of the month.

Q. How do you happen to remember it was that day?—A. Simply because I rented the house on Monday, the day—or no, the next day, I rented the house to two young men who occupied it for sleeping rooms and moved my stuff that was in it to another house, moved it themselves in order to get it out.

Senator FORAKER. That is all.

The CHAIRMAN. I think the witness does not hear readily the questions that are asked him, unless they are made very clear.

By Senator SCOTT:

Q. I want to ask you in regard to the shooting, when it was going on, and you were going from one window to the other; did I understand you to say that the companies were falling out then inside the barracks wall?—A. Not while the shooting was going on. It was fifteen minutes after the last shot was fired before there was any company formed or any roll call.

Q. You did not hear the shots that have been testified to, calling the soldiers to arms?—A. The blast of the bugle, do you mean?

Q. It has been testified here that the guard fired his piece—fired his gun—as the first intimation that there was a call to arms. You did not hear that?—A. No, sir; I never heard that there was any guard fired his gun.

By Senator FORAKER:

Q. You remained there looking out of the window, you say, for some time?—A. Yes, sir.

Q. Did you see a company form and march out into the town?—A. I saw a squad. I did not know that there was a company.

Q. How big a squad was that?—A. Do you mean how many were there?

Q. Yes; how many?—A. I did not count them.

Q. Can you give us any idea?—A. I should judge there was 15 or 20.

Q. Fifteen or 20?—A. Yes, sir.

Q. Did they come out at the gate?—A. Yes, sir.

Q. Were they under the command of an officer?—A. Yes, sir.

Q. Where did they go when they came out of the gate?—A. They came out of the gate and turned and came up onto the sidewalk. There is a mudhole out in the street there. They came up on the sidewalk, passed right through under, on my sidewalk, and went right up Elizabeth street.

Q. They went up Fifteenth street, didn't they?—A. No, sir; on Elizabeth street.

Q. Went up Elizabeth street?—A. Yes, sir.

Q. Are you sure of that?—A. Yes, sir; until they got out of the end of that block, at least.

Q. Did you see a company of soldiers under the command of a commissioned officer march out of the gate and pass up Fifteenth street in front of your place?—A. No, sir.

Q. To Washington or some other street beyond?—A. No, sir; I did not.

Q. You did not see that?—A. No, sir.

Q. Captain Lyon testified that he took his company and went out and patrolled the town.—A. He took his company up Elizabeth street to Twelfth street and then turned up.

Q. He went up Elizabeth street?—A. Yes, sir.

Q. He did not turn up Fifteenth?—A. No, sir.

Q. Did you see him when he marched out?—A. I saw him when he passed by toward Twelfth street. If he had passed up through the narrow street he would have went in my sight for at least 100 or 150 feet, but just as soon as he went under the gallery he was out of my line of vision, and I did not see him, but I heard the men.

Q. How many men were in his company?—A. I could not tell. That would be just guesswork.

Q. What I want to get at is, Did you see the company and also the squad you talk about?—A. No; I only saw the squad.

Q. Or was there only one that you saw?—A. I only saw a squad, or what I call a squad, the only men that I saw with Captain Lyon.

Q. You think that was Captain Lyon?—A. Yes, sir.

Q. And he had only a squad?—A. Yes, sir.

Q. That would be eight or ten or twelve?

Senator WARNER. He said fifteen or twenty.

By Senator FORAKER:

Q. Fifteen or twenty?—A. I think so; yes, sir.

Q. He could not have had forty or fifty men?—A. He could have had; yes, sir.

Q. If he had had forty or fifty, your estimate of fifteen or twenty is quite at variance with the facts. I want to get some idea of how accurate you are in your estimate. You can not give any information any more than that?—A. Just an idea of mine. I glanced at the men. I did not count them; had no reason to.

Q. But you know how many men were a hundred feet away from you in the dark up there toward the alley—there were eight of those; you know exactly about that—and yet this whole company marched out of the gate, right between the lights, and passed down Elizabeth street, as you say, right under your window, crossing over onto the sidewalk right under you?—A. Yes, sir.

Q. And yet you think there were only 15 or 20?—A. No; I do not say there were only 15 or 20. I say there were probably 15 or 20, and there may have been a great deal more. I could not tell. I know that the number of names that they called, to form that squad that answered to their names, did not exceed 20.

Q. Did they call the names of the men to form the squad before they marched it out?—A. Yes, sir; they did; and there was not more than 20 names called.

Q. That is the roll call you are talking about now?—A. I did not know what—I judged it was a squad that went out.

Q. They marched right out right after the roll call?—A. I think the general roll call was probably back there in the parade grounds. That probably was done with the lantern you speak of.

Senator FORAKER. I will put in evidence in connection with this Mr. Rendall's testimony before the citizens' committee, and all his other testimony.

By Senator BULKELEY:

Q. Do I understand you that there were no lights on Fifteenth street between the gates and Washington street—were there any street lamps on Fifteenth street and Washington street?—A. No, sir; I don't think there is. I know there is a private street lamp-post which belongs to Mr. Yturria, my neighbor, but I don't think that was lighted that night.

Q. Where is that lamp-post?—A. It is on the Washington street corner of that block, the corner of Washington and Fifteenth streets, on the east corner.

Q. But you do not think it was lighted?—A. I don't think it was. I never saw it lighted in my life.

Q. Are there any lights between the gate and Adams street, except that one post?—A. No, sir; I don't think there is.

Q. So there are no street lamps on that street whatever?—A. I don't think there is. I don't think there is a street lamp kept up by the city.

Senator WARNER. He said there was one lamp-post.

Senator BULKELEY. He said there was a private lamp-post, but that he never saw it lighted.

Q. Were there any lights that you observed inside of the wall that night, between the gate and a point opposite Washington street? Were there any lights in the post beyond the gate?—A. No; there were no lights inside of the barracks—inside the building.

Q. Did you see any lights in the barracks, or anywhere else in the post?—A. No, sir.

Q. You saw no lights there?—A. No, sir; no lights that I saw that night, excepting the lights over the two gates, which are lighted on all nights when there is no moon.

Q. Did you see any light between the gate and the Rio Grande River?—A. No.

Q. So there were no lights whatever there in the garrison or on the street between the Rio Grande River and Adams street?—A. There were no lights on Fifteenth street, except those at the entrance of the Government property that I know of.

Q. No other lights whatever?—A. Not that I know of.

Q. And you made all that observation in that dark night, without a lamp of any kind or sort, except the ones at the gate?—A. Exactly: yes, sir.

By Senator LODGE:

Q. There were lamps at the gate that night?—A. Yes, sir.

Q. Under which you saw the men?—A. Yes, sir.

Senator LODGE. I did not want the impression to be made that there were no lamps at all.

By Senator FORAKER:

Q. You said before that the men were 40 feet away from the lamps. You just now said to Senator Lodge that the men were under the lamps at the gate.—A. I don't understand you.

Q. I understood you to say to Senator Lodge just now that these men whom you saw were under the lamps at the gate. I understood

you to say to me that the men were back from the gate a distance of about 40 feet, midway between the gate and the line of the barracks.—A. The reflection of the——

Q. No; I want to know where the men were, and then you can add anything you want.

Senator WARNER. He is entitled to answer in his own way.

The CHAIRMAN. Witness, you may answer the question in your own way.

Senator FORAKER. Go ahead. There is no objection to his adding anything he wants to.

Senator OVERMAN. Go ahead and explain as you were beginning to do.

A. The reflection of the three lights at the entrance into the Government property is the only light that I saw, and the only lights that gave me anything like an artificial light to see what I saw.

By Senator FORAKER:

Q. Now, how far were the men from those artificial lights? That is what I want to get at.—A. The first men that I saw were inside of 50 feet from the center of the two lights that were going over the big entrance. They were inside of 50 feet, and they may have been 25 or 30 feet from the lights, but I will say that they were inside of 50 feet. The men that I saw up above, about the center of Company B barracks, about where the shots were fired at an elevation, were not exceeding 100 feet from me, but the light was dim at that distance, and I could not tell who they were. I know they were just men in uniform; at least, I supposed they were. The only men whom I could identify actually as being colored soldiers were those three or five—I think it was five, but I am sure there were three—who started apparently to come up into Elizabeth street, and I don't know whether those men were armed or not. I did not see any arms on them.

By Senator FRAZIER:

Q. How close did those three or five men pass to the lights of the two gates as they went on up toward B barracks?—A. I should say they passed within 30 feet.

By Senator FORAKER:

Q. Didn't you say a while ago they passed within 50 feet?

Senator WARNER. He said inside of 50 feet.

By Senator FORAKER:

Q. You said inside of 50 feet?—A. I saw them inside of 50 feet.

Q. You told me a while ago that they were 40 feet away, didn't you?—A. Well, I say inside of 50 feet. I do not put it down at 50 or 40 feet or anything of that kind. I am giving it approximately, as a mechanic would give any distance.

Q. They may have been as far away from you as 50 feet?—A. I said they were inside of 50 feet.

By Senator FOSTER:

Q. At whatever distance they were from the light, they were sufficiently in the light for you to recognize them as soldiers of that post?—A. Yes, sir.

By Senator BULKELEY:

Q. Now, I should like to finish my question. So there will be no misunderstanding as to what it was, I understood you to say that there are no street lights on Fifteenth street between the Rio Grande River and Adams street, except the one that you have never seen lighted and to which you referred.—A. The city of Brownsville has no street lights on Fifteenth street, because the street does not belong to the city.

Q. There are no street lights there?—A. No, sir.

Q. As far as you know, except this one private post, which you have never seen lighted?—A. Yes, sir.

Q. And you saw no lights that night inside the reservation or on the reservation except the lights at the gate?—A. I did not.

Q. Is that correct?—A. Yes, sir; that is correct.

Q. Where are those lights at the gate? Are they stationed outside the gate or inside the gate?—A. They are stationed on the wall.

Q. Outside?—A. On top of the wall.

Q. They are on top of the wall?—A. There is an elevation that forms what we call the gate posts, and those two lamps over the main gate stand at an elevation above the roadbed of at least 12 feet.

Q. They are elevated, so that they are on the wall?—A. Yes, sir; they are what are called Rochester lights, and the one over the small gate sets into an iron bracket.

By Senator FRAZIER:

Q. How high is that above the street?—A. That was about the same distance—about 12 feet above the sidewalk.

By the CHAIRMAN:

Q. Are there three lights—one over the small gate and two over the big gate?—A. Yes, sir; three lights—one on each side of the big gate and one in the center of the small gate. Those lights are about 50 candlepower, I suppose. They are first-class Rochester lights, such as the Government uses in all the reservations.

By Senator BULKELEY:

Q. That was all the light there was on that street?—A. Yes, sir.

Q. How far is it from the Rio Grande River to Adams street?—A. There was no other light.

Q. How far is it from the Rio Grande River to Adams street?—A. There are no lights except on the Government reservation, from the Rio Grande River up to Adams street.

Q. What is the distance from the Rio Grande River to Adams street along by those barracks?—A. Let me see—about 980 feet.

Q. Do you think that is all? Do you know how long the barracks are?—A. Nine hundred and eighty feet.

Q. Do you know how long the barracks are?—A. The lot is between the streets are 120 feet, with an alley of 30 feet that cuts the block in two.

Q. I was only trying to get at the distance. It has been testified here that the barracks are 150 feet deep. There are four of them. That would be 600 feet. There is a distance of about 50 feet between

them. That is 150 feet more, or 750 feet. Then it is about 150 feet from D barracks to the river, which would be 900, and about 100 more, about 1,000 feet, I should estimate it.

Senator WARNER. He said 980 feet.

By Senator LODGE:

Q. (Referring to the map.) The lamps were here, were they not?—

A. Yes, sir.

Q. At the gate?—A. Yes, sir.

Q. The small gate here and the large gate here, and there were the three lamps?—A. Yes, sir.

Q. And your house is where?—A. Here [indicating].

Q. That is your house?—A. Yes, sir.

By Senator FRAZIER:

Q. How far is that small gate from the large gate?—A. I think it is 12 feet from abutment to abutment of the wall where the gates swing.

By Senator BULKELEY:

Q. One more question, Mr. Rendall. What distance was it from your window, where you were making these observations that you have told us about, to where you saw the men jump over the wall near the center, as you have described it, of those barracks, or about the foot of the alley? About how far is it from your house to there?—A. From the window of my house to the alley itself?

By Senator FRAZIER:

Q. No; to the alley, or where you say you saw the men jump over.—A. The eight men that I saw go over the wall went over on the west side, according to your map, the west side of the alley. That is, they did not go over the center of the alley.

Q. The west side?—A. At exactly the center of the alley, inside of the garrison wall, is a building about 20 feet long, with a latticework around it. It is a closet. Now, the men that I saw go over the wall were at the south side, the southwest side of that little building.

By Senator SCOTT:

Q. That is toward the Rio Grande River is it, do you mean?—A. Yes, sir.

Q. Now go ahead.—A. And the others were on the other side of that little building, so they were separated, the two crowds that went over the wall, if they went over exactly at the same time, and I thought they did.

Q. Senator Bulkeley wants to know how far it was from the window to where they went over.

Senator BULKELEY. How far is it from the place where he made those observations to the place that he describes?

Senator SCOTT. Yes; that is what I was trying to get. He wants to know how far is it from your window where you were looking out to where you saw those squads of men go over.—A. It is about 100 feet.

Senator BULKELEY. That is what I wanted to know.

Senator FORAKER. That is all.

By Senator OVERMAN :

Q. You have not kept back any information about this matter from the committee. have you, any information that you have?—A. No, gentlemen, I believe not. I am a little deficient in a good many things, and one is that unless there is something that will call my attention to it, I do not notice it, I do not see it. Now, I can walk outside and see ordinary people walk along the street, and if every man has a hat and is dressed right I could not tell you how many there were or anything about it, but if I saw one man bareheaded, I could tell about it the next day. Now, about this, I had no idea at the time that there was anything to be brought up about this. It was not impressed on my mind. I will tell you directly, as betwixt man and man: I am trying to tell you the truth conscientiously, and just what has happened.

By Senator FORAKER :

Q. Your eyesight is perfectly good now at short distances, isn't it?—A. Well, it is not so good at short distances as it is at long distances, I don't think; but I can see pretty well.

Q. Is it as good in daylight as it is in the dark?—A. Well, about; although often when I am walking out in the night——

Q. You see every object in this room——

Senator FRAZIER. Let him finish his answer.

By Senator FORAKER :

Q. Certainly; finish what you were saying.—A. When I walk out in the night I usually take my glasses off and put them in my case, because the lights strike my glasses and I can not see as well in the night—in the street, when the lights strike my glasses—as I can if I have my glasses off.

Q. You say you see as well with them off?—A. I can not see as well usually with my glasses on, with a strong light shining on my glasses, as I can with them off. If I am walking along the street in the evening, I usually go without any glasses, as I believe almost every man does that wears glasses.

Q. Were you without glasses this night?—A. I could not say. I am under the impression that I put my glasses on. I think I gave that idea to Colonel Glenn there in San Antonio, but I am not positive about that. I can conscientiously say that I do not know whether I put my glasses on that night or not, but usually I have them on a stand right alongside of my bed, and when I get up in the morning I put my glasses on.

Q. You see all the objects in this room distinctly, don't you?—A. Yes, sir.

Q. Can you tell how many men are at the end of the room without any difficulty?—A. Yes, sir.

Q. It is no trouble to you to tell?—A. No trouble at all.

Q. Could you tell if they were 100 feet farther away?—A. Yes, sir.

Q. Tell how many there were and tell the color of them, whether they were white men or black men?—A. Well, there are two black men there at the end of the room.

Q. You see them distinctly?—A. Yes, sir.

Q. There are two black men at the door. You have no trouble at all in distinguishing objects near you, and you would not have if they were farther away? Now, do you see in the daylight at that distance without your glasses?—A. Yes, sir.

Q. Distinctly?—A. Well, not as distinctly as I can with them; no.

Q. You could tell how men were dressed, at a distance of 100 feet away from you in the daylight?—A. Oh, yes.

Q. Without your glasses?—A. Very well.

Q. Tell the color of their clothes, whether they had on hats or caps, and all such things as that?—A. Certainly.

Senator FORAKER. That is all.

Senator WARNER. That is all.

TESTIMONY OF MRS. ELIZABETH V. RENDALL.

Mrs. ELIZABETH V. RENDALL, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Please give your full name.—A. Mrs. Elizabeth V. Rendall.

Q. You are the wife of Mr. George W. Rendall, who has just testified?—A. Yes, sir.

Q. Your home is in Brownsville?—A. Brownsville, Tex.; yes, sir.

Q. How long have you lived in Brownsville?—A. Half my life.

Q. Do you remember the occurrence of the shooting up of the town of Brownsville on the night of the 13th of August last?—A. Perfectly.

Q. Where were you living then?—A. I was over in the upper rooms, over the telegraph office.

Q. That was at the corner of Fifteenth and Elizabeth streets?—A. Yes, sir.

Q. We have been calling Fifteenth street the Garrison road.—A. Yes, sir.

Q. Had you retired that night when you heard the first of the shooting?—A. Yes, sir; I had sat up rather late, and had gone to bed at probably about twenty minutes past 11, but I was not asleep when I heard the first shot, a single shot, and I got up at once and went to the end window, looking directly into the post, and waited a moment or two, and then there were four or five other shots. At that time Mr. Rendall had gotten up and came to the window also.

Q. Did you remain at the same window with Mr. Rendall, or did you change from window to window?—A. No; I changed from window to window. We thought that it was a fire, and I went from one window to the other alternately, so that I could see any flames, or any sign of it.

Q. Mr. Rendall owns considerable property along on Fifteenth street, does he not?—A. Yes, sir.

Q. At the time of the shooting did you notice parties moving inside of the garrison, near the wall?—A. No; not at that time. Just at the beginning I heard what seemed to be a confused sound of men moving, and low sounds, as though low talking.

Q. Confused sounds of men moving where—inside the garrison wall?—A. Yes, sir; seemed to me just near the first barracks.

Q. When you speak of the first barracks, do you mean the one nearest the river?—A. Nearest the river.

Q. That would be barracks D, the way it is marked on the map?—A. Yes, sir.

Q. What was this confused noise or sound that you heard? What did it sound like?—A. Well, it seemed like persons moving about as quietly as possible and yet making a confused noise. I could not understand it exactly. In fact, I did not think anything about it, but I heard this confused sound.

Q. After that did you notice the shadow of people moving there, inside?—A. It was after that that I saw the few men pass.

Q. Now, when you say you saw the few men pass, just explain that in your own way.—A. Well, I was looking from one of the windows, glancing out, and these men passed quickly along the wall, just a little distance from the wall rather, but I simply glanced at them. I saw that they were men, but they passed on and got beyond my view in a moment or two.

By Senator OVERMAN:

Q. Was that inside or outside of the wall?—A. Inside.

The CHAIRMAN. Senator Warner, will you please ask Mrs. Rendall if she has seen this map before.—A. I saw one similar in San Antonio—I presume it was similar.

By Senator WARNER:

Q. (Referring to the map.) This is supposed to be your house, at the corner of Elizabeth street and Fifteenth, or the Garrison road?—A. Yes, sir.

Q. And this is the main entrance into the barracks. This is barracks D, what we are pleased to call west, down toward the river anyway, and then this is barracks B, and this is barracks C. This is your house, and you were looking out, and you saw the shadow of these men when you were glancing out, passing there inside of the well. This would be the wall and here would be the barracks. Now, whereabouts, as nearly as you can tell us, this being barracks D, the one to the right of the gate as you go in, and this being barracks B, the one at the left of the gate as you go on—where were they?—A. Well, they were on the left.

Q. The left as you go on?—A. Yes, sir.

Q. Passing along here, then?—A. Passing toward the alley.

Q. This is the alley here. Did you observe close enough to see whether they were white men or colored men?—A. No; I could not.

Q. You just glanced at them?—A. Just saw that they were men moving, going quickly down.

Q. And did you see any of the men after that?—A. No.

Q. How soon after that was it that the heavy shooting commenced out in the town?—A. I think it must have been after these men passed, to the best of my knowledge.

Q. About how many shots did you hear?—A. Oh, a number; a great many.

Q. Did you observe closely enough to tell how many, or about how many, there seemed to be that you saw as you just glanced out and saw them passing on the inside there?—A. I think about six, possibly eight, but I think about six—five or six.

Q. You did not, I understand, pay particular attention to them; you just glanced out and saw them.—A. Just saw them at that moment.

Q. You are quite clear that you saw those men passing between the wall and the barracks?—A. Yes, sir.

Q. How were they moving, slowly or rapidly?—A. They were going quickly, and seemed to be well up together.

Q. You say you and your husband were not at the same window all the time, but that you moved from window to window?—A. Except once, when we were standing at the window looking into Elizabeth street, when the shot struck the house. I believe that was the only time that we were.

Q. How long was this after you saw the shadow of those men passing up there that the shot struck the house?—A. I can not recall that exactly.

Q. Just state that circumstance in your own way, Mrs. Rendall.—A. We were standing at the window, looking out into Elizabeth street, and suddenly there were several shots seemed to be fired, and I felt the dust and splinters fall on us, and the smell of the pine. Though I did not know at the time that the shot had entered the house, I knew it had struck the outside. I simply thought it had struck the outside of the house, and I said: "Let us get away from here; that struck the house," and we stepped back, at least I did, stepped back into the center of the room, and then after that, I think, was another number of shots.

Q. I assume you were pretty badly frightened.—A. I was very badly frightened; yes, sir.

Q. Could you tell from what direction this number of shots were fired afterwards?—A. No; I could not locate where, but they sounded very near; almost at my ears it seemed to me—very near, indeed.

Q. You did not see the men come over the wall?—A. No; I did not. I was not looking at that time. I could have seen them if I had been at the window at the time. Mr. Rendall did, but I was possibly at some other window.

Q. Mr. Rendall told you that he had seen the men going over, did he?—A. Yes, sir.

Q. But you were not at that window at the time?—A. No, sir.

Q. Did you see anything more of the soldiers that night until the roll was called?—A. No; I did not.

Q. About how many minutes was it from the time you saw those shadows moving along there, and the first shooting, until the firing ceased, would you think, if you have any idea?—A. I could not tell. I do not think the whole thing was more than ten or twelve minutes, the whole firing.

Q. I assume that you did not observe the exact time?—A. No; I did not.

Q. Do not pretend to give it?—A. No; just a guess.

Q. But you are quite clear about seeing those parties moving inside between the barracks and the wall?—A. Distinctly; yes, sir. That is, I did not see them distinctly, but I know that they were men.

By Senator FORAKER:

Q. Do you know the scavenger, Matias Tamayo?—A. Yes, sir; I know his family, and know him, of course, by sight.

Q. You know him, do you not?—A. Yes, sir.

Q. Mr. Rendall told us that he was a servant, I believe, in your family for a time.—A. His sister was a servant for many years.

Q. He spoke in such a low voice that I did not catch correctly all he said at times. At any rate you know Tamayo?—A. Yes, sir.

Q. Did you see anything of him that night?—A. No, sir; I did not.

Q. Did you see or hear his wagon at or about the time of this firing?—A. I may have done so. I have remarked it other nights about 11 o'clock or half past 11, passing there, but I do not recall that night.

Q. He has testified that he was just inside the wall there in the rear of this barracks when this firing commenced. If he had been there, could you have seen him?—A. No—well, I could have seen him if I had been up at that time.

Q. Well, you were up, were you not, when the firing was going on?—A. Yes, sir.

Q. You heard one shot and got up?—A. Yes, sir.

Q. And where was that shot located?—A. It sounded to me in the front of the quarters.

Q. As though in front of the quarters?—A. From that direction.

Q. Do you mean over on the parade ground side?—A. Somewhere there in that direction, I think.

Q. You think it was over there [referring to the map]. This is the row of barracks, there is your house, here is the parade ground, and now do you mean that that first shot was over here on this side of the barracks?—A. It sounded to me as though it was.

Q. You did not see that at all?—A. No.

Q. Then you got up and went to the window?—A. Yes, sir.

Q. And then you heard about five shots more?—A. Four or five.

Q. Did you see where they were fired from?—A. No; I just heard them.

Q. Where did they seem to be fired from?—A. Well, I imagine, from the same—of course I could not locate them distinctly.

Q. You did not see any flashes?—A. No; not then.

Q. You were looking out of the front window, though, as I understood you, toward the barracks, then?—A. Yes, sir.

Q. And they seemed to be over in front of the barracks?—A. It sounded that way. The sound seemed to come from that direction.

Q. Did you look up Fifteenth street, up here?—A. Yes, sir; I looked out of each window alternately.

Q. I know, but when you were looking out here you could have seen up the street for a short distance, at any rate, and you did not see any firing here?—A. No, sir.

Q. It seemed to be over there, but you did not locate them at all?—A. No.

Q. I understood you to say that after those five shots your husband got up and came to the window?—A. I think he came before that, about the first or second shot.

Q. You stated, as I observed a while ago, that he came after the five shots, or about that time. Now, where were those men when you saw them? I want to go back just a minute. Here is your house, and those men whom you saw were passing toward the east, and as I understood you they were up here near the rear part of B barracks, inside of the wall, but over nearer to the barracks than toward the

wall?—A. No; when I saw them they were at the second barracks. I don't know the names.

Q. That is B barracks—the second one—that is the one to the left of the gate as you go in?—A. Yes, sir.

Q. That is right opposite your house?—A. Almost directly opposite.

Q. How far along the barracks were they when you saw them?—

A. They were just on the other side of the small gate, about where there is a woodhouse.

Q. The small gate is 12 feet east of the large gate?—A. Yes, sir.

Q. And they were just about opposite that?—A. Opposite the gate.

Q. Opposite the small gate?—A. No; they were beyond that, going on up.

Q. They were farther east than that?—A. Yes, sir.

Q. How much farther east were they?—A. Well, as well as I remember, they were about nearly in front of the second barracks, or perhaps a little nearer.

Q. Do you mean about the middle of the second barracks?—A. Yes, sir.

Q. They were that far up—there were no lights there at all, were there?—A. No.

Q. No artificial lights?—A. No.

Q. The only lights were there at the gate?—A. Yes, sir.

Q. Then they must have been the distance of half the length of the barracks, maybe, from the roadway?—A. Well, the way that I can locate it better, there is small woodhouse—a small building that is used for a woodhouse—and they were just a little bit—

Q. Farther east than that?—A. Than that.

Q. A little bit farther east than that?—A. Yes, sir.

Q. Now, it has been testified that the scavenger with his cart was right near the western end of that second barracks, right where I am pointing, at the time when the five shots were fired, so these men were a little farther west than he was—farther east were they, if he was there?—A. Yes, sir.

Senator WARNER. I do not remember any testimony that he was there when the first five shots were fired. It was when the first shot was fired, which went over his head, and he skedaddled.

Senator FORAKER. Not until after the five shots were fired. The first was one or two shots and then a rattling fire, and then he put out his light and got on his cart and away he went.

Senator FRAZIER. He swore he walked away.

Senator SCOTT. The testimony will show for itself.

Senator FORAKER. That will show for itself.

Senator BULKELEY. He heard the bullets going over his head.

Senator FORAKER. I want to show that he was in that position at the very time that she testified about this. That is all I want to show.

The WITNESS. I did not hear the cart at all that night.

Q. You did not hear the cart at all?—A. I don't recall it. I possibly may have heard it, but I don't recall it.

Q. How far is it from the wall on the inside of the reservation, back to the barracks?—A. Oh, I don't know the number of feet. It is not a very great distance.

Q. Seventy-five feet. I believe Mr. Rendall testified.

Senator WARNER. I suppose you are no judge of distances?

The WITNESS. No; I am not.

By Senator FORAKER:

Q. Do you know how wide the street is in front of you there, to the wall?—A. I think I heard some one say it was about 30 feet or 36 feet.

Q. Along there somewhere. Well, it is a further distance from the wall to the barracks than it is across the street, is it not?—A. Yes, sir; it is further.

Q. You say these men were passing there quickly?—A. Going quickly; yes, sir.

Q. But that you could see them without any trouble?—A. I saw that they were men.

Q. What kind of a night was it?—A. Well, it was not a dark night; starlight.

Q. Did you hear any noise at that time in the barracks?—A. No, sir.

Q. Were there any lights in the barracks?—A. No lights in the barracks.

Q. Did you see any lights anywhere except only the two at the gate?—A. No lights that I recall; no, sir.

Q. Did you hear the bugle call?—A. I testified before Mr. Purdy that I heard a bugle call after those first few shots, but after thinking it over carefully I can not be so positive; yet it appears to me, I have it in my mind, that I heard first a single shot and then some four or five other shots, and then it appears to me that I heard a few notes of the bugle.

Q. The bugle call came after those first four or five shots?—A. A very short call.

Q. You only heard four or five shots and then the bugle call?—A. That is the way I remember it.

Q. Did you see any flashes of guns from shots inside the barracks?—A. I only saw just one flash.

Q. Where did you see it?—A. That was between the second quarters and the wall.

Q. Between the second and the wall—that would be about where? We just want to get that located. [Referring to the map.] These are what you call the second quarters, B barracks?—A. Well, the second quarters from the river; yes, sir.

Q. The second from the river, and it was somewhere there you saw the shot?—A. Yes, sir.

Q. This shot was somewhere in the rear of the barracks, between the barracks and the wall, and about opposite the middle of the barracks?—A. No; not the middle. It was nearer the end.

Q. Which end?—A. The end toward the gate, I think, nearer the small gate.

Q. Down that way somewhere?—A. Yes, sir.

Q. Now, do you remember your husband seeing two flashes from shots fired somewhere?—A. Yes, sir.

Q. Was this shot that you saw one of those?—A. It might have been.

Q. Do you know at what time he saw his shots?—A. No, I don't; but we did not compare notes or speak of it at all that night.

Q. You saw only one?—A. I just saw this one flash.

Q. Can you tell in what direction that was fired?—A. It seemed to be fired toward the wall.

Q. Or was it fired up?—A. No; horizontally.

Q. You think it was fired straight toward where you were?—A. Well, I don't know, sir. It seemed to be fired not with any particular object, but simply toward the low wall that goes in front.

Q. Here is your house, No. 1?—A. Yes, sir.

Q. Was it immediately opposite your house, in the rear of B barracks, that you saw that flash, or was it farther up?—A. It was farther up toward the east, I suppose.

Q. It was not opposite your house; it was off to the left as you looked up?—A. Yes, sir.

Q. Probably one of the shots your husband saw, but you saw only one?—A. Only one.

Q. Did you hear more than one?—A. Oh, yes.

Q. I mean, fired from that locality?—A. No; I don't recall that I did.

Q. You think that was the only one that was fired there?—A. The only one that I heard there.

Q. The others were fired, as you think, in front of the barracks?—A. As I say, I could not locate them. I heard all that firing, but I could not locate them, just where they were.

Q. But you saw only one flash?—A. Just the one flash.

Q. Did that seem to have been fired from the shoulder or from the hip?—A. Well, it was horizontal—seemed to be not very high.

Q. Now, did you hear the men when they came around and took position in rear of the wall with the companies?—A. When they were going out?

Q. No; when they were formed. Did you hear any men take position behind the walls there on either side of the gate?—A. I saw them and heard them when the officers finally came down and the men were called out.

Q. That is what I am talking about. How long was it after the firing when the companies were marched out and stationed in rear of the wall?—A. Oh, I think the firing had ceased.

Q. Well, I assume that it had. How long had it ceased? Was that quickly after the firing ceased?—A. Probably fifteen minutes.

Q. Then did you hear them call the roll?—A. Yes, sir.

Q. Where was the roll being called that you heard?—A. The roll was called in the rear of the first barracks, I think.

Q. In the rear of the first barracks—that is the one down next to the river?—A. Toward the end.

Q. Can you tell us how many men answered to the roll call?—A. I think that in my first statement down there, either the stenographer made a mistake or I made a mistake about the number that I said answered. I think I had it in my mind that those who did not answer seemed to be six or eight.

Q. In your statement to which you refer, doubtless, you state that only fifteen or twenty men at the outside answered to their names?—A. Yes, sir.

Q. And that there were only four or five that did not answer. Then it would not be a full company roll call?—A. No; it did not

appear to me that it was, though it may have been. The roll call may have been going on before that.

Q. The only thing I want to get at is whether you mean to make the distinct statement that only fifteen or twenty men were present and answered to their names when the roll was called down by the gate?—A. Well, no; I still have it in my mind that the few number were the ones that did not answer to their names.

Q. The few number—but do you mean to tell us that there were only fifteen or twenty men present?—A. That is all that I recall. There may have been others. The roll may have been partially called before that. I simply had my attention attracted to it at that time.

Q. The whole company may have been there, so far as you know. may they not?—A. Yes, sir. Though I was positive at the time that they called but a small number.

Q. Did you see any soldiers out there in front of the gate that night, at the time this firing commenced?—A. No; only those that I saw.

Q. One witness, McDonnell, has testified that he lived in this same locality, and that when the first shot was fired he ran down Fifteenth street, and he saw fifteen or twenty men standing right here, right by the gate, right near your house, and that he saw them divide and one bunch go to the alley and one bunch go down Elizabeth street. Did you see anything of that?—A. I did not.

Q. You did not see any men?—A. I did not see any men in front there.

Q. The only men you saw there were the men passing back of B barracks?—A. Yes, sir.

By Senator OVERMAN:

Q. Did you intend to convey the impression that the shot you saw fired toward the wall was the same shot that your husband saw, or one of them?—A. No; I don't know. It might have been possible.

Q. You say it might have been possibly the same shot?—A. Yes, sir.

Q. If the shots that he saw went up in the air, it was not the same shot?—A. It was not the same. Of course I don't know. As I say, we were each of us looking out of different windows, and he saw things that I did not see.

By Senator FORAKER:

Q. You spoke of one shot entering the house and scattering some splinters and dust over you. When was it that that shot struck the house? Was it after these five shots had been fired and the bugle had sounded?—A. I think so.

Q. How long afterwards?—A. I could not say, possibly not more than a minute or two—two or three minutes, perhaps.

Q. Where was the firing going on at the time that that struck the house?—A. I think in the post.

Q. Still in the post?—A. I think so.

Q. You think that shot was fired from the reservation, do you?—A. I think so; fired from the first quarters.

Q. That is, from D Company's barracks?—A. Yes, sir.

Q. What makes you think it was fired from there?—A. Well, from the way that the bullet struck the house; I do not see how it could have been fired from any other direction.

Q. It struck the house on the Elizabeth street side?—A. Yes, sir.

Q. And you think from the way it struck the house that it must have been fired from those barracks?—A. From the first barracks.

Q. Did you see any firing from down there?—A. I did not observe any.

Q. You had been looking out of the window long before that shot had been fired, had you not?—A. Yes, sir.

Q. And you did not see any shots fired from down there at all?—A. No; I did not.

Q. Your attention was attracted to the firing up in this locality at that time, was it not?—A. Well, I don't know that my attention was attracted to anything in particular.

Q. You were looking at everything, as near as you could?—A. Yes, sir.

Q. Might not the shot have been fired from Fifteenth street, outside of the barracks, outside of the wall?—A. I don't think so.

Q. You think it was fired from the barracks?—A. I think so.

By Senator LODGE:

Q. Did the shot strike the house on the Elizabeth street side?—A. Yes, sir.

By Senator FRAZIER:

Q. Did you or your husband make any observation with reference to the direction in which the bullet struck the house and the point at which it left the house?—A. Not until some time afterwards.

Q. Afterwards you did?—A. Yes, sir.

Q. Did you see him put a ramrod into the hole that the bullet made in the house?—A. Yes, sir.

Q. Did you take some interest to see where that ramrod would point, as the direction from which the bullet must have come as it entered your house?—A. No; I did not; because I possibly would not have understood it, but I heard him tell Lieutenant Leckie, who was sent down there to investigate those things, and he came up there to show him the direction of the ramrod.

Q. You heard him tell Lieutenant Leckie the direction in which the ramrod pointed?—A. Yes, sir.

Q. As indicating the point from which the bullet was fired?—A. Yes, sir.

Q. How high up on your house did the bullet enter—the second story?—A. It is only a two-story house. It was above us.

Q. About the eaves of the house? You were in the second story and it was above you, the upper part of your room?—A. Yes, sir.

Q. Went through your room diagonally and went out on the other side?—A. Yes, sir.

By Senator FORAKER:

Q. It was Lieutenant Leckie that put the ramrod through?—A. No; my husband did it himself.

Q. Lieutenant Leckie was making the investigation, was he not?—A. Yes, sir.

Q. And it was under his superintendence, and to enable him to determine, was it not?—A. I believe that he tried to pass it through, and did not succeed in getting it entirely through, and Lieutenant

Leckie went downstairs. My husband finally gave it a sudden turn and it went directly through the roof. So, then, I believe that he called Lieutenant Leckie back again and showed him the direction, and it was his opinion, also, that the shot came from the quarters.

Q. Lieutenant Leckie has testified that it did not come from the quarters, but from a position outside in the street, as nearly as he could determine.—A. Well, I was under the impression that he thought the bullet came from those quarters.

Q. That is all you know about it?—A. That is all I know, simply what I saw.

By Senator WARNER:

Q. What was it Lieutenant Leckie said there when your husband brought him back, as to the place from which that shot came that entered your house?—A. I was not in the room when he came back the second time.

Q. Did you hear him state?—A. No; I did not hear him make any remark. I do not know what his comment on it was, at least.

Q. What is that?—A. I do not know what the lieutenant's comment was on it.

Q. Whatever it was, Mr. Randall was up there, and I suppose all you know about it is what your husband told you?—A. Yes, sir; he told it that it was his idea that it came from those quarters.

By the CHAIRMAN:

Q. Of course it was a time of great excitement, but do you happen to remember just where you were in the house at the time that this shot struck it? Was it while you were looking out of the window or while you were passing from one window to the other that that shot struck the house?—A. While I was standing at the window looking out onto Elizabeth street—both my husband and myself stooping and looking out—and suddenly I knew the house was struck, though I did not know until afterwards that the bullet had gone completely through the room—did not know it until the next morning—but I knew it had struck the house from the splinters and from the odor of the pine.

By Senator FRAZIER:

Q. And by the dust that fell on you?—A. Yes, sir; the dust.

By Senator TALIAFERRO:

Q. You left the window when you realized that the house had been struck?—A. Yes, sir.

Q. Was the house struck when this general firing was going on?—A. Yes, sir; I think so. I think that the firing had been going on, at least the first firing, and some of the other firing also.

Q. The bulk of the firing had taken place when your house was struck, if I understand you?—A. Well, I am not so sure about that. I think afterwards there was considerable firing, but I think that was possibly the last.

Q. A good deal of the firing had occurred before your house was struck?—A. Yes, sir; a good deal; quite a good many shots.

Q. So that you saw those men going up in the rear of B barracks before the firing became general?—A. Oh, yes, sir; I think so.

By Senator BULKELEY:

Q. How many shots did you locate in the garrison that night, inside the reservation?—A. Well, I think the first shots were all in there, the first dozen, perhaps. I can not be accurate as to the number.

Q. Well, about how many?—A. Well, sir; quite a number.

Q. Did you distinctly locate them at the time?—A. No; only generally. I supposed from the sound that they were fired from the post.

Q. Were you paying any particular attention to where the shots were from?—A. No; I was too frightened, but tried to locate the sounds.

Q. That is what you testified to before the court-martial, that you did not pay any particular attention; that you were frightened.

At 1.10 o'clock p. m. the committee took a recess until 2.15 o'clock p. m.

AFTERNOON SESSION.

The recess having expired, the committee, at 2.15 o'clock p. m., resumed its session.

Present, Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

EXAMINATION OF THE INTERPRETER.

MARION E. BEALL sworn as an interpreter by the chairman.

By Senator FORAKER:

Q. Mr. Beall, you are familiar with the Spanish language?—A. Yes, sir.

Q. Can speak it?—A. Yes, sir.

Q. Can understand it?—A. Yes, sir.

Q. And translate it?—A. Yes, sir.

Q. Readily?—A. Yes, sir.

Q. Where did you study it?—A. I was in Mexico nine years.

Q. You learned it there?—A. I learned it there, and have been a translator in the War Department since 1900.

Q. You are a translator of documents in the War Department?—A. Yes, sir.

By the CHAIRMAN:

Q. You feel entirely competent to undertake this work, do you?—A. Yes, sir. There may be phrases that I will stumble on, but I do not think so.

Q. And you have no interest or prejudice in the subject-matter now under consideration before this committee?—A. Absolutely none. I don't know anything about the case.

By Senator FORAKER:

Q. There are provincialisms in the Spanish language as well as any other?—A. Yes, sir.

Q. If you come across anything you do not fully understand, let us know.—A. I will be very frank to say so.

The CHAIRMAN. It was our request that we should have a man who was familiar not only with the Spanish language, but with the language idioms, etc., as spoken in Mexico.

By Senator FORAKER:

Q. Have you ever served as an interpreter before?—A. Not in a court; not officially, but I have interpreted quite frequently.

Q. That is simply in the Department?—A. In the Department; yes, sir.

Q. You have interpreted conversations?—A. Yes, sir.

By the CHAIRMAN:

Q. You feel competent to translate conversations, or written or printed documents from one language to the other?—A. Yes, sir; I would not say that I would like to translate from English into Spanish at sight. There would be idioms that would not be classical; I confess that.

TESTIMONY OF JOSÉ MARTINEZ.

JOSÉ MARTINEZ, being first duly sworn, testified as follows:

(The oath was administered to the witness by the chairman, in English.)

By Senator FRAZIER:

Q. Do you understand enough English to know what the chairman was saying?—A. Yes, sir.

The CHAIRMAN. The gentleman sitting at your left is Mr. Beall, an interpreter, so if you do not understand the questions that are put to you, you will take them from him. Senator Warner will open the examination.

By Senator WARNER:

[The examination was begun in English.]

Q. You will give your name in full.—A. José Martinez.

Q. Did you ever live in Brownsville?—A. Yes, sir; I lived there two years.

Q. When was that?—A. I can't tell you the dates, but it was in 1905 and 1906.

Q. Where were you living before that?—A. In Laredo, Tex.

Q. And what were you doing in Brownsville during your stay there?—A. I was a clerk in Putegnat's drug store.

Q. Where were you on the night of August 13 last, at the time of the shooting up of the town of Brownsville?—A. I was at my home.

Q. And where was your home in Brownsville?—A. Right in front of the barracks, between Washington and Elizabeth streets, in the alley.

Q. Point it out on the map.

(The witness pointed out the location on the map.)

Q. Your house where you lived, then, was the one marked No. 9?—A. Yes, sir.

Q. At the corner of the alley and Fifteenth street?—A. Yes, sir.

Q. That was the alley between Washington and Elizabeth streets?—A. Yes, sir.

Q. With whom were you living there?—A. With another fellow by the name of H. Shannon. I don't know what his first name was.

Q. He and you were keeping bachelors' hall there; you were living just you two together?—A. Yes, sir.

Q. What was the nearest house to you there?—A. Yturria's house

is the nearest one that is occupied. There is an empty house that is nearer.

Q. That is the house between your house and Fourteenth street?—

A. Yes, sir.

Q. And then the house on the corner of Fourteenth street, marked 2; what is that?—A. That is Louis Cowen's house.

Q. And the house marked No. 7 is right across the alley from you and fronting on Washington street, was it not?—A. Yes, sir.

Q. That is Yturria's?—A. Yes, sir.

Q. What was the first thing that you heard of the shooting on the night of the 13th?—A. A little before midnight, a little before 12 o'clock.

Q. What did you hear?—A. I heard about four or five shots at the same time.

Q. You were in the house at the corner of the alley and Fifteenth or Garrison road?—A. Yes, sir.

Q. Where was your room in that house?—A. My room was this corner room, right here. The house has three rooms; I was in the parlor in the northwest corner—I was in the parlor when the shooting occurred. I had not gone to bed yet.

Q. About what time of the night was that?—A. A little before 12.

Q. And where was the first shooting that you heard?—A. Right in front of my door.

Q. When you say in front of your door, do you mean that it was in the alley or on Garrison road?—A. I mean inside of the garrison.

Q. Inside of the garrison?—A. Yes, sir.

Q. That is, inside the garrison, between the garrison wall and the barracks?—A. Yes, sir.

Q. Now, you just state what you saw there and what you heard.—

A. Well, I heard the first shots, you know, and I tried to go out and see what was the trouble, and I heard many voices there calling, "Hurry up," or "Jump," and I thought I would not go out. I blew the light out and lay down on the floor; closed the door and lay down on the floor.

Senator FORAKER. I did not understand the answer of the witness.

The CHAIRMAN. You may respond either in English or in your own language, through the interpreter, whichever pleases you best.

The WITNESS. I could make you understand better through the interpreter.

(The remainder of the examination of this witness was conducted through the interpreter.)

By Senator WARNER:

Q. When you heard voices did you know what was said, or distinguish anything that was said?—A. Generally they said, "Hurry up," and "Jump," but as it was not my own language I could not understand very well what was being said.

Q. Did you see any parties there get over the wall?—A. I could not say positively that I saw them, but I heard them jump.

Q. After you heard the jump, what next did you hear or see of those parties?—A. The first thing I heard was the shots; some moments after that I saw people running toward the center of the town, running along the alley.

Q. How many parties were there what were going down the alley toward the town?—A. When I saw them there were four or five, but I did not count any more.

Q. Was it so that you could distinguish, to tell whether these parties were white or colored, or soldiers or citizens?—A. I could distinguish the khaki uniform color, but it was impossible to distinguish, or I did not pay any attention, to the countenances.

Q. State whether those parties who were going up the alley were going in the direction of the Cowen House, marked No. 2 on the map?—A. They were.

Q. Where was the shooting that you heard after the parties had come over the garrison wall?—A. Either in the street running in front of the barracks wall, or at the very corner of my house.

Q. When you saw the four or five men, as I understood, that went down the alley toward the Cowen House, did you see others go to Elizabeth street?—A. There were others, but I could not see in what direction they went.

Q. How many were there altogether that you saw?—A. Those whom I saw with my own eyes were only those that passed along the alley by my house.

Q. And how many were there?—A. Four or five.

Q. How were they dressed?—A. In light uniforms.

Q. Did you recognize or not whether they had guns, and if so, how they were carrying them?—A. They had guns, and they were carrying them in this manner [indicating].

Q. That is, having the stock of the gun at the hip?—A. Yes, sir.

Q. Show us with this gun how they were holding them.—A. Pointing toward the center of the town.

Q. Were they white men or colored men?—A. They were people with dark faces, but I could distinguish the uniforms more clearly than I could the faces.

Q. From what you saw there did you recognize them as soldiers?—A. Yes, sir; because there were no other people there that wore that kind of dress or clothing, and dark faces.

Q. Why was it that you lay down on the floor?—A. Because I was afraid that they might shoot.

Q. Did you have a light?—A. At the beginning I had a light.

Q. What did you do with that?—A. I put it out.

Q. Why?—A. Naturally so that they could not see into my house in the event that they intended to shoot.

Q. Were there any shots fired into your house?—A. Yes, sir; when I returned to Brownsville in December I found evidences of it.

Q. You did not make an examination until then?—A. No, sir; other people showed them to me.

Q. After the parties passed by your house in the alley, where was the shooting you next heard?—A. In the direction of the center of the town, but it is impossible to say just where.

Q. About how long did the shooting continue?—A. Fifteen minutes, more or less.

Q. What, if anything, did you see of those parties after they passed your house, going up the alley toward the Cowen house?—A. I saw them but a moment as they were passing, and did not see them afterwards.

Q. Did you see them in the act of shooting when they were shooting?—A. They were shooting when I saw them.

Q. How did they hold their guns when shooting?—A. In a horizontal position.

Q. Take a gun over there and illustrate.

(The witness illustrated by holding the gun in the hip position.)

Q. They were shooting from the hip?—A. They had the rear of the gun at the hip.

Q. Tell us, if you can, how they worked the gun, if you saw them during the firing?—A. I could not describe precisely how they were manipulating the gun, but they held it in that position, and I heard the sound of the manipulating of the chamber of the gun.

Q. Did you go out of the house that night after the shooting?—A. No, sir.

Q. The next morning you went out, did you?—A. Yes, sir.

Q. You did not know anything then of the lieutenant of police being wounded, or the man being killed, until the next morning?—

A. No; I did not know it until the following day.

Q. Did you notice whether those parties that passed down the alley in front of your house and were shooting had hats or caps on?—

A. No; I did not notice.

Q. You would not undertake to say?—A. I can not say. I did not fix my attention on that.

Q. How many shots did you hear altogether?—A. I heard a great many; it would be impossible to say; possibly 150 or 200.

Q. From what you saw there of those parties with the guns, did you then form a definite opinion as to who it was doing the shooting up of the town?—A. I could form no opinion. All I could say is what I saw.

Q. About what was the distance of those parties who went along the alley that you saw—those four or five with the guns, shooting—from where you were at the door or window?—A. The window was about 20 feet from them.

Q. Where were you standing?—A. At the window, at the side behind the house.

Q. Was the window up or closed?—A. There were wire screens in the window.

By Senator OVERMAN:

Q. Did you see those men before the light was put out?—A. I saw the reflection of the carbines before I put out the light.

Q. Did you ever have any trouble with any of the negro soldiers?—A. No, sir.

Q. Or any of the officers?—A. No, sir.

Q. Or with any of the soldiers there?—A. No, sir.

Q. Did you have any objection whatever to the soldiers being in Brownsville?—A. No, sir.

Q. You were clerk in a drug store?—A. Yes, sir.

Q. Did the colored soldiers come there?—A. Yes, sir.

Q. Did you sell them what they wanted, the same as you would sell to white people?—A. Yes, sir.

Q. Just the same?—A. Just the same.

Q. Did you have any prejudice against the colored men?—A. No, sir; never.

Q. You were born in Mexico?—A. Yes, sir.

Q. What is your age?—A. Thirty years.

Q. Are you a graduate druggist?—A. Yes, sir.

Q. How long have you been a druggist?—A. Twelve years.

Q. Where did you graduate as a druggist?—A. I have my license from the State of Texas.

Q. A licensed druggist in that State?—A. Yes, sir.

By Senator FORAKER:

Q. Where is your drug store located that you were employed in?—

A. Down here [indicating on the map].

Q. Is it on the street corner?—A. No, sir; it is in the middle of the block.

Q. On what street?—A. Elizabeth street.

Q. What is the number of the street next to you, going toward the garrison?—A. Twelfth street.

Q. That is, you were on Elizabeth street between Twelfth and Thirteenth, is that it?—A. Between Eleventh and Twelfth.

Q. On which side of Elizabeth street is your drug store located?—A. On the right side.

Q. That is, the east side: you are on the right-hand side as you go up the street toward the fort?—A. Yes, sir.

Q. How far is that drug store located from Tillman's saloon, the Ruby Saloon?—A. One block. Tillman's saloon is in the middle of the block.

Q. The Tillman saloon is between Twelfth and Thirteenth?—A. Yes, sir.

Q. And you are between Eleventh and Twelfth?—A. Yes, sir.

Q. Is your drug store a one-story or a two-story building?—A. It is a two-story building.

Q. To whom did it belong?—A. To George Putegnatt.

Q. How was the upper story of your drug store occupied?—A. By different offices, doctors and engineers.

Q. How did you spend that evening before the time that this firing commenced, or before you returned to your house?—A. I was in the street until 11 o'clock. At 11 o'clock I went to my house.

Q. At what time did you leave the drug store?—A. At 10 o'clock.

Q. And then you were in the street from 10 o'clock until 11 o'clock?—A. Yes, sir.

Q. Where were you in the street?—A. I was walking along the street out of doors, without any special business.

Q. I would like you to tell us on what streets you were walking?—A. I do not know the streets very well.

Q. How long have you lived in Brownsville?—A. Two years.

Q. And you had lived there two years at that time?—A. Oh, possibly one year and eight months, at that time.

Q. And were not familiar with the streets?—A. No; not familiar with the streets.

Q. You know Elizabeth street, don't you?—A. I know Elizabeth street and Washington street, and I am acquainted with that part of the town, but the other parts I can not speak of with confidence.

Q. What part of the town were you walking in, the part you were acquainted with or the part that you were not acquainted with?—A. I was walking in the part of the town above Adams street.

Q. That is a part of the town you are not familiar with?—A. Not much; no, sir.

Q. How did you happen to go out into that part of the town that night between 10 and 11 o'clock?—A. It is my custom to walk.

Q. Did you ever walk there before at that hour of the night?—A. Yes, sir; I have walked there.

Q. How frequently?—A. Once a week, more or less.

Q. Was there anyone in company with you as you walked that night, out in that part of the town?—A. I was alone.

Q. Just alone?—A. Yes, sir.

Q. Do you usually go alone when you walk in that way at that hour of the night?—A. Usually, because it is hard to find anyone who is not asleep at that time.

Q. Were you in any saloon that night?—A. No, sir.

Q. After you left the drug store?—A. No, sir.

Q. And before you got back?—A. No, sir.

Q. You were not in any saloon?—A. I passed by a saloon, but I did not go in.

Q. What saloon did you pass by?—A. Crixell's saloon.

Q. Which Crixell's saloon was that which you passed by; where is it located?—A. On Elizabeth street.

Q. The one immediately opposite, or nearly so, the Tillman saloon?—A. Yes, sir; the one in front of the Tillman saloon.

Q. Did you observe whether there was anybody round about Crixell's saloon or Tillman's saloon when you passed there?—A. My recollection is that there was a coach and coachman, and people, but I paid no attention to them.

Q. Do you know anything about this coach, where it came from?—A. No, sir.

Q. Had you ever seen it before?—A. No; I closed the drug store, and then I passed by there.

Q. The drug store is on the opposite side of the street from Crixell's saloon, is it not?—A. Yes, sir; it is on the opposite side of the street.

Q. So you passed over and went by in front of Crixell's saloon?—A. Yes, sir.

Q. Then where did you go after that?—A. I then passed up to that part of the town of which I spoke, because I have an uncle there and my relatives live in that part of town.

Q. But when you passed Crixell's saloon you were going in the direction of the fort. How far did you go up toward the fort before you turned to go to your uncle's?—A. I am not sure, but I think I turned up Thirteenth street.

Q. Did you go to the house of your uncle and stop there?—A. No; it was closed; they had retired.

Q. Did you try to go in?—A. No; I thought of going in, but finding the house closed I did not try.

Q. Did you return immediately to your rooms where you were living?—A. Yes, sir; about 11 o'clock.

Q. Then what did you do until the time of the firing?—A. I was reading.

Q. Were you still up and awake when the firing commenced?—A. I was in front of the door, with the light burning, when the shooting began.

Q. Were you outside?—A. No; just inside the door.

Q. With the light burning?—A. Yes, sir.

Q. Is it your habit to sit up and read until midnight?—A. As a habit; yes, sir.

Q. At what time do you usually retire?—A. Well, sir, about 11, more or less.

Q. But this night you were up an hour later?—A. Yes, sir.

Q. Was there any reason why you sat up later by an hour this night than you usually do?—A. Because I had received some newspapers from my home.

Q. Had you heard that there was likely to be any trouble in the town that night?—A. No, sir.

Q. Nothing of that kind had anything to do with keeping you up, then?—A. No, sir.

Q. Were you sitting back in the middle of your room, or near the door, or where?—A. I was in front of the door, right close to the door, with the light behind me; I was sitting between the light and the door.

Q. Was the door open?—A. The door was open, but the screen was closed.

Q. Did you hear any noise of any kind before you heard the firing commence?—A. No noise that attracted my attention.

Q. What was the first thing you did hear?—A. The first four or five shots.

Q. Where were they located?—A. In front of my door.

Q. Did you see the flashes of the guns?—A. I did. I was reading, and the flash of the guns attracted my attention, because it made a light on my paper.

Q. Did you see the flash itself?—A. No; not with the eye precisely, but out of the tail of my eye, and I heard the thunder of the shots.

Q. Could you tell us whether those were pistol shots or rifle shots?—A. I can not say, because I am not able to distinguish between a pistol shot and a rifle shot.

Q. At page 700 of the court-martial proceedings you are reported as testifying as follows, speaking of these shots: "Were they fired in the street?—A. I can't say exactly, but it sounded like they were inside the quarters." Is that answer correct?—A. That is not accurate. According to the sound, it was not in the barracks. What I want to say is that it is impossible for me to judge from the sound as to whether it was close or one square away.

Q. That is all I wanted to get, whether you judged from the sound or whether you saw it.—A. By the sight.

Q. Did those shots come one after the other in quick succession, those four or five shots?—A. They came so close together that it seemed as though four or five persons were firing at the same time.

Q. Was it volley firing, all firing at once, or a rattling succession of shots?—A. Almost instantaneous.

Q. Then how could you count and tell that there were just four or five shots?—A. That was a natural sound.

Q. What I want to know is whether you counted, and are able in that way to tell us that there were five shots, or whether you just guessed how many shots were fired?—A. I did not count. It is just my opinion.

Q. Was that bunch of shots the first that you heard?—A. Yes, sir.

Q. When did you put your light out and get down on the floor?—A. Instantaneously.

Q. How long did you stay on the floor?—A. Until I ceased to hear any shots; perhaps half or three-quarters of an hour.

Q. Remained on the floor for half or three-quarters of an hour?—A. Yes, sir.

Q. Did you close the door?—A. Before lying down on the floor I closed the door.

Q. Which way was your head turned as you lay on the floor?—A. In the direction of the barracks or quarters.

Q. Your head was toward the barracks?—A. Yes, sir.

Q. Was there any other door into that room?—A. To the street; no.

Q. Did anyone occupy that room with you?—A. You mean regularly, or that night?

Q. I mean that night.—A. There was no one with me.

Q. Did anyone regularly occupy that room with you?—A. Shannon.

Q. Where was he that night?—A. Shannon told me that he was in a saloon.

Q. What is Shannon's full name, his first name?—A. His first name is Harry.

Q. Harry Shannon?—A. Yes, sir.

Q. What is his occupation?—A. He is a typographer; a typesetter; a printer.

Q. What saloon did he say he was in that night?—A. Crixell's.

Q. Had he been away from the room any other night near about that time?—A. Regularly he got to the house very late.

Q. About how late?—A. At 12 or 1, as circumstances indicated.

Q. What kept him out so late at night?—A. It is impossible for me to say.

Q. Did he occupy the same bed with you in that room?—A. No.

Q. Did you have two beds in this room?—A. In this room there was no bed.

Q. Where did you sleep?—A. I slept in a back room, and Shannon slept in a side room.

Q. What was the size of this front room that you occupied?—A. I could not tell very well. It was 15 by 10 or 15 by 12. That is just an estimate.

Q. Was it on the first floor, the ground floor?—A. Yes, sir.

Q. Did Shannon come home that night at all?—A. No, sir.

Q. Was that an unusual thing, for him to stay out all night?—A. This night he did not come because he was afraid to come.

Q. He was in a saloon, you tell me. Now, at what time was he in that saloon? What was he doing in that saloon?—A. He loved billiards very much.

Q. Did he report to you that he was there playing billiards?—A. No; he did not tell me that. He told me that he was in the saloon.

Q. You testified before the court-martial that you could hear words and hear sounds, but you could not see anything. I refer to your testimony on page 701 of the record of the Penrose court-martial. That is correct, is it?—A. That is true.

Q. You did not see anything; you only heard?—A. Yes.

Q. Tell us what lights, if any, were in Fifteenth street or the alley between Fourteenth and Fifteenth streets, in the neighborhood of your house; what lamps were there, if any?—A. There are no lights

there until Fourteenth street is reached. At least in the immediate neighborhood of my house there was no light.

Q. And Fourteenth street is a square away?—A. One square away.

Q. Do you know how many feet that is?—A. No; I do not know.

Q. Do you know how long those squares are?—A. No.

Q. What kind of a night was that?—A. My recollection is that it was dark; more dark than light.

Q. Did you hear any sounds that night except the sounds of the firing?—A. I did not.

Q. Have you not testified on another occasion that you heard a wagon, the rattling of a wagon?—A. Yes; that was something heard every night.

Q. Where was this wagon that you testified about before?—A. Now I know it was the wagon that carried off the offal from the quarters.

Q. That is, the scavenger's wagon?—A. The scavenger's wagon.

Q. Where did that noise appear to be from that you heard?—A. It could not have been far away, because it was a sound I heard every night.

Q. Was it not over near the second barracks from the river, in the rear of the second barracks?—A. Where is that?

(Senator Scott here indicated the location on the map.)

By Senator FORAKER:

Q. Was it not in the rear of the second barracks?—A. I can not say where it was, but it stopped near the shots, the firing—the point of firing. It was near my room, because I heard it well.

Q. When was it you heard that wagon?—A. Minutes or seconds before hearing the shots.

Q. Was it not immediately after the firing of these five shots?—A. I could not say positively. It made a great deal of noise; but I heard it before.

Q. I will ask you if you did not testify before that you heard it immediately after the five shots?—A. I do not remember to have testified so. I could not have heard it, because there was so much shooting.

Q. I will call your attention to your testimony on page 703 of the record of the Penrose court-martial, near the bottom of the page, where you will find the following:

Q. How long before the first shots did you hear the sound of this wagon?—A. Immediately after the first shots were finished.

Is that correct?—A. The whole thing occurred almost instantaneously.

(The testimony in question was here translated and read in Spanish to the witness by the interpreter.)

Senator FORAKER. I want either to examine him or to have him answer directly each question that I ask, and have you interpret that to us. I do not like these long conversations resulting in the statement to us of the substance of what he has said.

The CHAIRMAN. I suppose what you want to do is to have the interpreter give to him what he is reported to have said before the court-martial. Is that it?

Senator FORAKER. He has already given that to him.

The CHAIRMAN. Now, you want his answer interpreted back?

Senator FORAKER. I want the interpreter to tell us just what he says.

The INTERPRETER. Will you repeat the question?

Senator FORAKER. I suppose that I will have to do so now.

By Senator FORAKER:

Q. Your statement to which I have called attention is that you heard this wagon. Now, the answer you gave, and I quote it literally, is:

A. Immediately after the first shots were finished.

Is that answer correct, that is what I want to know?—A. The sound of the wagon ceased immediately when the sound of the shots was heard.

Q. I will ask you another question, then. I will read further from your testimony before the court-martial:

Q. Please go to the map and point, if you can, where, from the sound of this wagon, it must have been immediately after the first shots.—A. (Witness goes to map.) That is the wall, I think; I heard it about 40 feet, more or less, from the wall.

Q. About in the center of B Company barracks?—A. Between the barracks and the wall.

Now, I would like to know if that is true or not. I only want to find out whether your testimony is accurately reported. I would like to ask if the witness can not read English?

The INTERPRETER. He says he can read it, but many words he does not understand.

Q. There does not seem to be anything very difficult about that. I wish you would just look at it and tell me whether that is correct; that is what I want to know.

The CHAIRMAN (to the interpreter). If there are any words the witness does not understand, you can explain them to him.

(The above-quoted questions and answers in the printed record of the court-martial were here examined by the witness.)

By Senator FORAKER:

Q. Have you read that?—A. I understand it.

Q. Is that correct?—A. It is correct.

Q. Now read on to the end of that examination, which goes over onto page 704, and state whether or not that is correct.—A. (After examination.) I believe that that is true.

Q. Yes. That is all. Now, you closed your door and put out your light and threw yourself on the floor as soon as these first five shots were fired?—A. Yes, sir.

Q. And you remained there how long—half an hour, did you say; something like that?—A. A half an hour or forty-five minutes. I can not say positively or exactly how long.

By Senator OVERMAN:

Q. Did the light from your door shine out into Fifteenth street?—

A. Yes, sir.

Q. Did the men you saw pass in that light before you put it out?—

A. I did not see them before the shots.

Q. Did you see them before you put out your light?—A. I did not see them before I put out the light.

Q. When did you see them?—A. Nor afterwards, either.

Q. You did not see them?—A. No, sir.

Q. Have you not stated that you saw them? I do not think you understand me.—A. I did not see them before my house, in front of my house.

Q. Where did you see them?—A. Behind the house.

Q. In the alley?—A. In the alley.

By Senator BULKELEY:

Q. After you closed the door did you see these men again? After you put out the light and closed the door did you see anything of these men again?—A. No; because all the doors were closed.

Q. So that all you saw of these men was just from the time you heard them jump over the wall to the time you put out your light and shut your door. You knew nothing further about it?—A. Yes; but I heard many footsteps—

Q. Well, you saw nothing?—A. (Continuing.) And people running.

Q. You saw nothing after that?—A. At this time, nothing.

Q. You did not see them jump over?—A. I did not see; but from the sound, I assumed that.

Q. Then you are judging not by your sight, but simply by your ears?—A. From hearing and not from sight.

Q. Did you at any time see the faces of these men?—A. This night?

Q. Yes; this night. Did you see the faces of these men at any time this night?—A. Not well; or, better said, no.

Q. I want to refer to this answer which was shown you on page 701 of the court-martial record, half way down the page. I will read the question and answer.

Q. Now, you said, I believe, that you didn't see these men. Do you mean by that you didn't see their faces, or did you see their forms at all?—A. He didn't see the faces, but saw the figures, like they were running.

Now, you didn't see any faces at all that night, did you. Is that answer correct, that is what I want to know?—A. (After examining printed record.) It is correct.

Q. After you closed your door you lay down on the floor?—A. Yes, sir.

Q. And went to sleep?—A. Not right away.

Q. I will read you now the following questions and answers from page 702 of the record:

Q. After this firing had passed your house, did you leave your house until the following morning?—A. No, sir; I stayed there to sleep.

Q. About what time did you go to sleep?—A. I went to sleep about a quarter after 12 or half past 12, more or less; I can't tell.

Is that correct?—A. It is correct; but there is something that I do not understand. I want to know whether you want to know whether I went to sleep in bed or on the floor there.

Q. No; anywhere. I want to know whether you went to sleep there from a quarter to half past 12.

Senator FOSTER. He does not say that he went to sleep on the floor.

By Senator FRAZIER:

Q. Did you go to sleep on the floor or in the bed?—A. In the bed.

By Senator BULKELEY:

Q. You went to bed and went to sleep?—A. Yes, sir.

Q. With all this firing and shooting going on in the streets of Brownsville, and the town being shot up, it did not alarm you, but immediately after these men passed your house you turned into your bed and went to sleep?

Senator WARNER. I submit that is not the testimony of the witness.

Senator FRAZIER. He stayed on the floor half an hour or three-quarters of an hour before he went to bed, as he has said.

Senator BULKELEY. This is just as it is here, and it is sworn testimony. I will put it another way, if you do not like that.

By Senator BULKELEY:

Q. After you shut the door and put out the lights you went to bed, did you not?—A. No, sir.

Q. What did you do?—A. I lay down on the floor.

Q. How long did you stay there?—A. Half an hour or forty-five minutes.

Q. How long?—A. Thirty or forty-five minutes.

Q. Then you went to bed?—A. Yes, sir.

Q. And paid no attention to what was going on in the city, but went to asleep?—A. At this hour all traffic had ceased.

Q. All firing, I suppose you mean. What do you mean by "traffic"?—A. All noise that was about my house had ceased.

Q. With all this firing going on, and these men running through your streets and shooting in front of or near your house, you quietly turned in and went to sleep at about a quarter to 1 o'clock, did you not?—A. Yes, sir.

Senator BULKELEY. That is all.

By Senator FOSTER:

Q. Mr. Martinez, there is no doubt about your hearing these men jumping over the wall or a sound like these men jumping over the wall, is there?—A. There is no doubt; no, sir.

Q. There is no doubt about your seeing men dressed in uniform, carrying their guns, is there?—A. There is no doubt whatever. I saw them with my own eyes.

Q. You may not have recognized faces, but you know they were men dressed in United States uniform, with guns?—A. Yes.

Q. Were these men white men or black men?—A. Their faces were more obscure than their clothing.

Q. Just one more question. Do you know the difference between the rifle and the carbine?—A. No, sir.

Q. Did you not testify before the court-martial that they were carrying carbines?—A. I do not know whether they were carbines or what they were.

Q. I will turn to page 702 and ask you whether you did not first testify there that they were rifles, and then change your testimony and say that they were carbines?—A. The two things for me are the same. I do not know the difference.

By Senator WARNER:

Q. I want to put in the record there that question from page 702, with the answer:

Q. What did you see?—A. He saw some men firing with rifles—carbines.

By Senator TALIAFERRO:

Q. Did you see any Mexicans in Brownsville that night?—A. The hackman or coachman was a Mexican.

Q. Did you see him that night?—A. I saw him there as he passed the saloon, and I know well that he is a Mexican.

By Senator FORAKER:

Q. Do you know his name?—A. No; I know him by sight; nothing more.

By Senator TALIAFERRO:

Q. If there had been half a dozen Mexicans in Brownsville that night, would you have been likely to know it?—A. I do not know what you mean, because most of the people there are Mexicans.

Q. I mean Mexicans who were nonresidents of Brownsville?—A. There were no strangers—nonresidents—came to my knowledge.

By Senator BULKELEY:

Q. Did this coach you saw in front of the saloon, with the Mexican driver, belong in Brownsville?—A. Yes, sir.

Q. How many would it hold?—A. There were four seats.

By Senator FORAKER:

Q. Did this coach have a regular place to run to?—A. No.

Q. How did you know it was a Brownsville coach?—A. I have seen it often in front of the drug store; and coaches for Matamoros never came there, as there is no bridge.

Q. Coaches for Matamoros never came there? But I will ask you if coaches do not run up and down the river to those places near there? Is there not a place called Santa Maria near there?—A. I do not know anything of it.

Senator FORAKER. That is all.

By Senator FRAZIER:

Q. At the top of page 702, in your examination before the court-martial at San Antonio, Tex., you were asked this question and gave this answer:

Q. Could you tell what kind of men these were?—A. Yes, sir; he could tell they were negroes.

Is that correct?—A. I did not answer as laconic as that.

Q. What is your answer to that? Could you distinguish whether they were colored men or not?—A. All I can say is that their faces were obscure, as I have always said.

Q. Dark?—A. Dark; yes.

By Senator FORAKER:

Q. The ordinary Mexican face is dark, is it not?—A. Who knows? I am a Mexican, and I am not so very dark.

Q. Are they not generally darker than you are?—A. There are persons darker than I who are Mexicans.

By Senator BULKELEY:

Q. You have testified here to-day, have you not, that you did not see their faces?—A. I saw their clothing, but could not see their faces well, owing to the darkness of the night.

Senator BULKELEY. That is it, exactly.

By Senator FRAZIER:

Q. And was that also owing to the darkness of the faces?—A. Yes; I suppose it was.

Q. The faces were darker than the uniforms, were they?—A. Yes, sir.

By Senator OVERMAN:

Q. If they had been white men, could you have distinguished them?—A. Yes, sir.

By Senator BULKELEY:

Q. How could you tell, if you could not see on account of the darkness of the night?—A. It was not very long, and I had not time really to make an analysis; it was just a fleeting view, or vision, that I saw.

Senator BULKELEY. That is what I supposed. I expected the witness would tell the truth, and that that is what he would say. He could not tell.

By Senator FORAKER:

Q. I want to ask you if you are a naturalized citizen of the United States?—A. No, sir; I am a Mexican citizen.

Q. You never have been naturalized?—A. No, sir.

(At 4 o'clock p. m. the committee adjourned until to-morrow, Thursday, May 16, 1907, at 10.30 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Thursday, May 16, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF F. A. H. SANBORN.

F. A. H. SANBORN, being duly sworn, testified as follows:

By Senator WARNER:

Q. Please give your name in full.—A. F. A. H. Sanborn.

Q. What is your business?—A. I am manager of the Western Union Telegraph Office at Brownsville, Tex.

Q. How long have you been in that position?—A. About thirty years, sir.

Q. At Brownsville?—A. Yes, sir; with the exception of three or four years of that time that I was in the service of the cable company in Mexico; but my home has been in Brownsville for thirty years.

Q. Are you a native of Texas?—A. No, sir; I am a native of the State of Maine.

Q. I see you wearing the Grand Army button.—A. I have that honor, sir.

Q. Were you in the service?—A. Yes, sir.

Q. What regiment?—A. The Twelfth Maine Regiment. I entered the service and was with them a few months and then went into the military telegraph corps and served with them through the entire war.

Q. It is in evidence here that the telegraph office in Brownsville is at the corner of Elizabeth street and Fifteenth, or Garrison road?—A. Yes, sir.

Q. Mr. and Mrs. Rendall lived upstairs in that building?—A. Yes, sir; the same building.

Q. Mr. Sanborn, had you any feeling about the colored troops coming to Brownsville?—A. No, sir; none whatever.

Q. Or any feeling against the colored troops?—A. Not at all, sir.

Q. Or any troops?—A. No, sir.

Q. Where did you sleep?—A. I was sleeping in the room immediately in the rear of the telegraph office—the same building.

Q. Are you a man of family?—A. No, sir; I am a bachelor.

Q. You were sleeping in the room in the rear of the telegraph office?—A. Yes, sir. It has a window opening toward the wall of the Government reservation, and I was sleeping right under that window.

Q. When you say a room in the rear of that building—A. It is an addition built onto the main building. It is the same length as the telegraph office building; flush with the end of the building that sits toward the garrison gate.

Q. The building fronts on Elizabeth street, does it not?—A. The main building; yes, sir.

Q. Counting Elizabeth street as the front, then the addition is back?—A. Yes, sir.

Q. What was the first that you heard, if anything, of the shooting there that night? Just tell us in your own way.—A. I was awakened from sound sleep by heavy firing very near me. It seemed to be between me and the garrison gate or fence, or perhaps just beyond, but so near that of course I could not tell exactly how near. It was the report, evidently, of high-power rifles, and there were several shots, perhaps seven or eight, and, of course, it was very confusing to me, right by me in that way. I had no idea in the world what it was. I got up, partly dressed myself, and I did not think it was advisable to open my doors, because I had no idea what was going on. After some time I lighted a lamp in the office. There is a communicating door between my room and my office, and shortly after that I went back into my sleeping room and went to this window facing the garrison road. The window was up, but the shutters were closed. I opened the shutter and looked out. Everything had quieted then in front of me, and before this I had heard shooting above me.

Q. When you say above you, you mean up from the river?—A. Yes, sir; rather back from the river, back from me, and it seemed to be farther up the town, away from the garrison gate. I could not, of course, locate it.

Q. I do not, of course, assume that you can locate it exactly, but take, for instance, the alley that is between Washington and Elizabeth streets.—A. It might have been there.

Q. It was up in that direction?—A. Yes, sir.

Q. You would not attempt to locate it exactly, of course, by the sound?—A. No, sir.

Q. You say you opened the window?—A. I opened the slats of the blind and looked out, and just as I was looking I saw come along by the whitewashed garrison fence—I could see plainly because there was a lamp on each side of the large gate of the post—I saw a man come along. He walked along; the man that I saw was a colored man in uniform, with his gun. He walked along the fence, did not seem to be very hurried, and passed through the small foot gate of the post and went in, and went toward the barracks. After he passed the gate I could not see where he went. Everything was quiet then around the post.

Q. You could see him distinctly then?—A. Yes, sir; very distinctly, especially as he approached the gate. The lights over the gate showed him plainly against the white or light-gray wall.

Q. That wall you say is whitewashed?—A. I rather think that it is light gray, but it is faded nearly to white.

Q. How long has your office been at that point?—A. About two years in that building.

Q. You recognized that party as being a colored man and a soldier?—A. Yes, sir.

Q. You say you recognized his having a gun?—A. Yes, sir.

Q. Did you see any other soldiers going in?—A. No others at all, sir.

Q. How long after that, if at all, did the shooting continue?—A. I think—I do not recall quite clearly, but I think the shooting had ceased, or rather this must have been right immediately before the time that the shooting ceased.

Q. It was about the time—it had ceased, or about the time?—A. Yes, sir.

Q. Did you go up into the town that night?—A. No, sir; I did not leave my place.

Q. The next day did you have a talk with different parties as to who had done the shooting?—A. The next morning I saw that they had deployed the soldiers along the garrison wall, armed, and I saw Captain Macklin. He was the officer of the day the day before, and I suppose his duty had not expired so early in the morning. He was leaning over the garrison wall.

Q. What time in the morning was that?—A. Probably 8 o'clock, and I walked over where he was, and asked him what had taken place, and he answered, "Well," he says, "some one shot up the town last night and killed one man and wounded another, and they say it is these soldiers." That is all the conversation that took place.

Q. Did he at the time express to you any doubt as to its being the soldiers?—A. No, sir; he expressed no opinion at all.

Q. That is the conversation as it occurred?—A. That is all; yes, sir.

Q. You were quite well acquainted in Brownsville?—A. Very well, sir.

Q. And at the time you heard this matter discussed a great deal?—A. Well, not so much perhaps as others. I was very closely confined to my office. I was alone there and had a great deal of work to do, and I did not hear it so much. The most that I knew of it I saw through the papers, printed.

Q. You had no assistant?—A. I had no assistant at that time; no, sir.

Q. Brownsville is a town of about how many inhabitants?—A. I think they say it has between eight and nine thousand.

Q. About what proportion of the inhabitants are Mexicans?—A. Well, fully half, I should say. There are a great many of them there.

Q. You could not tell accurately—do not know what the census shows?—A. No, sir; I don't recall that I ever saw the correct figures.

Q. Well, the character generally of the inhabitants there, how does it compare with other towns?—A. I should say very favorably; very nice people and law abiding, loyal people, and I have never seen anything contrary to that since I have been there.

Q. I do not know what the facts may be. Of the Americans that are there, is it or is it not a fact that a very considerable percentage of those are northern people who have gone in there?—A. Yes, sir; there are very many of them there.

Q. I mean from the Northern States?—A. Yes, sir.

By Senator OVERMAN:

Q. You have been living there some time, Mr. Sanborn. How did the character of these negro soldiers compare with the other soldiers who have been there?—A. We had had colored troops there before, and they were very well-behaved men. I never heard any complaints against them.

Q. How were these men as compared with the others?—A. They were there so short a time we did not have much to see of them, but they were not considered up to the standard. They were rather loosely controlled, it seemed like, and not very well disciplined, I would say. I noticed considerable of that myself, being right there by the post, and being rather interested in military affairs, and so forth, having been a soldier, and I have always been in close touch with the garrison. In fact I have lived in there, occupied an officer's quarters in there by courtesy of the commanding officer; have known all the officers who served there for the last twenty-five or thirty years.

Q. You say they were very loosely disciplined?—A. It seemed so to me.

Q. And as to the character of the men, as to the language used, and so forth, did you notice anything of that?—A. I noticed that they were rather boisterous, and were not like the soldiers that we had been accustomed to having there. Soldiers are always very decent in their ways, and we had never had any trouble between the post and the town.

Q. Although they had been there but a short time, you noticed a difference as to their discipline?—A. Yes, sir; on one or two occasions.

Q. Did you notice anything as to the language, whether they were loud, boisterous, and vulgar?—A. Yes, sir; I saw that.

By Senator FOSTER:

Q. You swear positively that the man whom you saw go into the fort or the post that night at about the time this shooting ceased was a soldier, and a colored soldier, and had with him a gun?—A. Yes, sir; I judged that he was a soldier from the way he carried himself and the way he handled his gun. There is a difference, which any military person would recognize, that is not easily acquired by a citizen or anyone else. I should judge, and I think I can say positively, that he was a soldier.

Q. He went in the small gate to the post?—A. Yes, sir.

Q. Had his uniform?—A. Yes, sir.

Senator FOSTER. That is all I wish to ask.

By Senator SCOTT:

Q. This soldier that you saw going in the gate, was he very much excited and running as fast as he could go?—A. No, sir; he did not seem to be; he seemed to be very deliberate.

Q. He did not appear, then, to have been out in the town shooting it up, and anxious to get back in the barracks before he would be detected?—A. He did not seem to show any disposition of that kind, but there were supposed to be no soldiers in the town that night, as the passes had all been countermanded, as I understand.

Q. It has been testified here that there was a soldier out, who was out on pass, and that he went in the gate. Might that not have been the soldier that you saw?—A. I think not. It is not usual for a soldier to have his gun with him when he is on pass, or at any time unless he is in the ranks.

Q. You are certain it was a gun?—A. Yes, sir; certain it was a gun.

Q. And you are certain he was a soldier?—A. Yes, sir.

Q. But you said a moment ago that the reason you thought he was a soldier was because you knew the uniform.—A. That is the reason I knew he was a soldier—from his bearing, his uniform, and so on.

Q. Didn't you form your opinion because you knew the soldiers were there, and you thought he was a soldier that was going in?—A. I don't think so. I was positively convinced that the man was a soldier, as much so as I would have been if I had seen that he was a citizen or any other thing—indicated by his bearing, uniform, or anything of that kind.

Q. If it should be shown that these soldiers had an unusually good reputation while they were at Brownsville, then would you want to change your opinion in which you say that you think they were a bad set of soldiers?—A. Why, I should not, as far as my observation went. Perhaps those that I met might have been exceptions. There are good soldiers and bad soldiers, well disciplined and badly disciplined, anywhere.

Q. You said a moment ago that they were not under good discipline.—A. I said on one or two occasions I noticed it.

Q. Give us an illustration of the case you refer to.—A. I saw them on the back gallery of their barracks. They were unruly and loud in their talk; and a thing that is not usual I noticed on one occasion, where a commissioned officer of the Twenty-sixth Regiment, of the company that was stationed down there from Fort Sam

Houston after this trouble, although he was in citizen's clothes, and I do not suppose they were strictly obliged under the army regulations to recognize him or salute him, but I think that it is usual to show the officers courtesy when they know them. There was a group of soldiers on the rear gallery of one of the barracks, right near the walk where the officer passed, and at first they made no move to recognize him. At last one sort of slipped down from his seat where he was and came to attention. All the balance in the group gave a loud laugh, laughed at him, and I did not consider that was a sign of very good discipline.

Q. Having been a soldier yourself, you probably are aware of the fact, are you not, that soldiers do not usually speak in a whisper when they are in barracks and not on duty?—A. Oh, yes, of course; but I had noticed the other soldiers and my impression was that these people were a little louder in their ways.

Q. You also admit that when an officer is dressed in citizen's clothes a soldier is not supposed to know that he is an officer and is not expected to salute him?—A. I am not certain about that. I say I don't think they are.

Q. And this officer being from another regiment, might it not have been possible, when you thought it was a discourtesy, that it was simply because those soldiers did not know him?—A. Possibly; yes.

Q. Then it was not such a bad case after all of unruly soldiers?—A. No, sir; nothing very flagrant about it, sir.

By Senator FORAKER:

Q. Where were you born?—A. In Bangor, State of Maine.

Q. Did you enlist at Bangor?—A. Yes, sir.

Q. In the Twelfth Maine?—A. Yes, sir.

Q. Where did you serve with the Twelfth Maine?—A. In Louisiana all the time.

Q. How long were you serving with your regiment?—A. I was probably three or four months with them.

Q. Do you state that you were that long in the service with the Twelfth Maine?—A. I do not recall the exact time.

Q. How did you happen to get out of the service?—A. I was furloughed by a special order from the War Department, furloughed without pay or emolument by a special order from the War Department, to enable me to take service in the United States military telegraph corps. I was in New Orleans at the time, and they were very short of operators, and there was an order issued that the most intelligent private should be detailed from each of several regiments that were there and be taught telegraphy. They were given the choice to be discharged from the Army and enter into a contract with the Government, or to be borne on the company rolls as on furlough without pay, and still remain that way, and of all that were detailed there was only one who took the last course. I consequently was a member of my company up to the time it went out of service.

Q. So you served after you left your company, as a detailed soldier on furlough, but your duty was that of a telegraph operator?—A. Yes, sir.

Q. Where did you serve as a telegraph operator?—A. In New Orleans, and at a point outside of New Orleans, on Lake Ponchartrain, and after that I was appointed a cipher operator at headquarters,

Department of the Mississippi, at Vicksburg. I was there until the close of the war, and was ordered to turn in my cipher to the Secretary of War.

Q. You were getting the pay of a telegraph operator and a cipher operator then, after you left the company?—A. Yes, sir.

Q. And you were at Vicksburg when the war ended?—A. Yes, sir.

Q. When did you go to Brownsville?—A. I do not recall the date, it is so long ago, but I went North and turned my cipher over to General Eckert, Assistant Secretary of War at that time, and went back South to New Orleans, and have lived in the South ever since.

Q. Where did you live before you went to Brownsville?—A. I went from New Orleans to Houston, Tex.; was there a short time, and then went to Austin, Tex. After that I came back and was in the employ of the Central Railroad, the first railroad built in Texas. I was on one branch, from Burton station to Austin, and when the road was completed to Austin I took the other branch at Corsicana, and was with the road until it was finished to Dallas, Tex. After that I came to Brownsville.

Q. How long had you been telegraph operator at Brownsville before this shooting affray?—A. Very nearly thirty years.

Q. Did you have any trouble about telegrams that were being received by you as a telegraph operator at Brownsville, from the War Department, about them getting out and becoming known, the contents of them, before they were delivered to Major Penrose?—A. No, sir.

Q. You had no trouble with that?—A. No, sir.

Q. No complaints were made to you?—A. No, sir; no complaints to my recollection.

Q. Are you aware that it was thought and charged by the officers there that there was a leak in the telegraph office?—A. No, sir; I have no idea of it.

Q. If there was, there was no other operator there except only you?—A. That is all, sir.

Q. You received quite a number of telegrams, didn't you?—A. Yes, sir.

Q. From the War Department, The Military Secretary, and others?—A. Yes, sir.

Q. Addressed to Major Penrose and to Major Blocksom?—A. Yes, sir.

Q. Have you any knowledge of any of them becoming known to the citizens of Brownsville before they were delivered to the parties to whom they were addressed?—A. No, sir; none whatever.

Q. Is this the first time you ever heard of that?—A. The first time I have ever heard of it.

Q. If anything of that kind was done, who could have done it except yourself?—A. Well, hardly anyone. There was no one with me except Mexican messenger boys, who would hardly have the intelligence to read a Government message and understand it. Certainly nothing ever came out with my knowledge or consent.

Q. Passing that, I understand you were asleep when this firing commenced, were you?—A. Yes, sir.

Q. And you state that you were sleeping in a room back of the office you occupied as a telegraph operator?—A. Yes, sir.

Q. Was that back room a room that fronted on Elizabeth street?—
A. No, sir; the end of the room stood toward the garrison gate, and it was immediately back of the office, which faces on Elizabeth street.

Q. It was a room, then, that was back of your office as you went eastward?—A. Yes, sir.

Q. Through the house?—A. Yes, sir.

Q. That was your bedroom?—A. Yes, sir.

Q. How large a room was that?—A. Well, it was about 12 feet wide. I should think, and about 20 feet long; a very large room, nearly as large as the office.

Q. And it had a window at the end looking out toward the fort?—
A. Yes, sir.

Q. That is the window from which you looked when you saw this soldier, as you think he was?—A. Yes, sir.

Q. You were awakened by rapid firing, as I understood you?—A. Yes, sir.

Q. It was not just a single shot that awakened you, but you heard a number of shots?—A. Yes, sir.

Q. Did you hear a bugle call about that time?—A. No, sir; not at that time; I heard it later.

Q. Where was it you think those shots were fired—the location?—
A. They were very near me. I could not locate them.

Q. Seemed to be right by your house almost?—A. Yes, sir; right by my house.

Q. And you thought they were between you and the garrison wall, did you not?—A. Yes, sir; that was my impression.

Q. You so testified before, didn't you?—A. Yes, sir.

Q. And still so testify. Well, as soon as you were awakened and realized that this firing was going on, what did you do? Did you get up and dress, or anything of that sort?—A. I partly dressed and attempted to light my lamp, but found—

Q. Did you succeed in making a light?—A. I did later, but probably eight or ten minutes later.

Q. You did not make any light, did you, until after the firing was all over?—A. Yes, sir; I think my light was in the office before the firing had ceased.

Q. You did not make any light, did you, before you saw this soldier?—A. No.

Q. It was after that. Now, haven't you testified a number of times that you saw this soldier about the time the firing ceased?—A. I don't recall exactly.

Q. Can you tell whether or not the firing had entirely ceased when you saw this soldier?—A. It is very difficult to tell how those things happened, when it all occurred in so few minutes and there was so much excitement about it, and of course I could not be entirely exact.

Q. Did you look out of that window at all before the time when you looked out and saw the soldier there?—A. No, sir.

Q. You did not look out?—A. No, sir.

Q. How did you occupy yourself during that time?—A. Walking around the place, looking for something to light my lamp, and, in fact, I was very much confused and hardly awakened. It was out of my first sleep, and I could not really tell what I did do, because the thing was very startling. I had no idea in the world what it

was. I had no reason to expect anything of the kind or anything to give me any idea what it was.

Q. The first firing was right in the immediate neighborhood of your room and between you and the garrison wall. When was the next firing?—A. It seemed some distance away from me. Afterwards I heard that the firing took place in that alley. I should judge it was about that distance from me; about that distance from the fort.

Q. (Referring to the map.) Assuming that the first firing you heard was about here, then was the next firing down in the Cowen alley?—A. Yes, sir.

Q. Somewhere back there?—A. Yes, sir.

Q. And then did it continue apparently to recede, going farther up town?—A. I did not notice that it did.

Q. You did not notice that?—A. No, sir.

Q. Did you hear any firing except that which was at the Cowen house or in that neighborhood?—A. That is all. It might not all have been in the same locality, but I did not recognize it.

Q. You can not tell whether it appeared to recede or not?—A. No, sir.

Q. You did not notice it enough?—A. No, sir.

Q. You were a good deal excited, I suppose?—A. Yes, sir; perhaps I was frightened.

Q. And did not notice it. Now, is it not true that you did not open your window until after the firing was all over?—A. I don't recall exactly. It might have been.

Q. And quieted down, and then you pulled open the window—that is, you turned the slats in the window.—A. Yes, sir.

Q. Did that window have a window screen in it?—A. No, sir.

Q. Was the window itself hoisted?—A. Yes, sir.

Q. That was up?—A. Yes, sir.

Q. And you had these lattice shutters?—A. Yes, sir.

Q. That would turn on pivots?—A. Yes, sir.

Q. And you just turned one of those slats, so you could peep out and see what was going on?—A. Yes, sir.

Q. And you saw a man coming down the walk?—A. Yes, sir.

Q. From the direction of the Cowen alley?—A. Yes, sir.

Q. He was over next to the side of the wall, was he, and you followed him until he went down to the small gate?—A. To the small gate.

Q. And you saw he entered the reservation?—A. Yes, sir.

Q. Now, there is no light over the small gate, is there?—A. No, sir.

Q. There are only two lights there, one over each post at the side of the large gate?—A. Yes, sir.

Q. Can you give us the candlepower of those lights?—A. No, sir; I can not.

Q. The small gate is about 12 feet east of the large gate?—A. About that, I should say, sir.

Q. And you looked out through your window and you saw him go along here somewhere [indicating], and how far away was he from the small gate when you first saw him?—A. Oh, probably 25 or 30 feet.

Q. So that you saw him take seven or eight steps, maybe as many as ten?—A. Yes, sir.

Q. Before he turned into the gate?—A. Yes, sir.

Q. You got a very short view of him the nin point of time?—A. Well, he was walking deliberately, he was not in a hurry.

Q. He was not in a hurry, walking very leisurely.—A. Yes, sir.

Q. Did not look like a man who was running away from a scrap?—A. He had his piece this way [illustrating]. With his right hand he was doing something with the magazine of his rifle.

Q. He was doing something with his magazine?—A. With the butt of the arm. I am not familiar with that kind of gun.

Q. What did he do that made you think that?—A. He had his hand that way [illustrating] and he was looking at it.

Q. Do you remember seeing the soldiers come out, after they were formed, after the alarm was given?—A. Yes, sir.

Q. Where did they form?—A. Well, it was dark in there, and I could not see. I told by the sound of their voices. I judged it must have been in the rear of the barracks, but it may have been in front.

Q. When you say the rear, do you mean the side toward the parade ground?—A. No, sir; between where I was and the soldiers' barracks.

Q. Don't you know, as a matter of fact, that they formed over here, in front of the barracks, each company in front of its own, and then marched around and took position immediately behind the wall?—A. I don't know that; no, sir; I just judged.

Q. You did not see that occur?—A. No, sir.

Q. Did you see any company thrown into position behind the wall, on the lower side of the gate?—A. No, sir; it must have been done after I had gone to bed.

Q. Did you go to bed at once?—A. After the first company roll call. I sat in my end door and listened to the roll call.

Q. Where was that roll being called?—A. That is what I can not determine. It was so dark in there I could hardly see, though I could hear their voices plainly.

Q. Could you tell whether that roll was being called in front of B barracks or down here south, or on the right side of the gate, behind the brick wall?—A. I don't think I could tell.

Q. You sat in your front door?—A. The door in the end of the office, facing Elizabeth street.

Q. Came out of your bedroom into the front room, which was the office?—A. Yes, sir.

Q. The front door is on the Elizabeth street side, isn't it?—A. There is a door in the office facing the garrison wall.

Q. Is there a door in the office facing the garrison?—A. Yes, sir; that is the one I sat in.

Q. Is there also another one?—A. Yes, sir; double doors on Elizabeth street.

Q. Double doors on the Elizabeth street side?—A. Yes, sir; and there is another door in the end.

Q. Do you mean a double door, like the one behind you there?—A. Yes, sir.

Q. That is on the Elizabeth street side; but you sat in the door that fronted out toward the garrison?—A. Yes, sir.

Q. So you had a good view of what was going on?—A. Yes, sir.

Q. Now, if a company had marched down here and formed right behind that wall, only 35 feet from you and immediately across the street, you could have heard them, could you not?—A. Oh, yes.

Q. Do you tell us you did not hear them?—A. My impression is that I only heard the roll call before there was any movement of the company or anything of that kind, and then I went in and closed the door and went to bed. Everything was quiet.

Q. It has been testified here that Company D was formed in front of its barracks and then marched around and put behind the wall there, their right resting at the gate, and that immediately after they went into position there the captain ordered a roll call, and the sergeant got a lantern and called the roll. Is that the roll call you think you heard?—A. The roll call that I heard was before anything of that kind could have been done, because I saw the officers, as I supposed, come across—I could not see them to recognize them—across the parade.

Q. And the roll called immediately?—A. Going into the soldiers' quarters, routing them out, and getting them down, and called the roll.

Q. That is what you heard?—A. Yes, sir.

Q. You heard those things go on?—A. Yes, sir.

Q. And you heard the men come down from the quarters?—A. Yes, sir; I heard them call the roll; listened to the officer call the roll.

Q. That was before the firing stopped, was it not, when the officers came over there?—A. No, sir.

Q. Did not any of the officers get over to the quarters until after the firing was over?—A. I think not, sir.

Q. And the men were not ordered out of their barracks until after the firing was all over?—A. That is my recollection of it, sir.

Q. And you are positive of that?—A. I think I am positive; yes, sir.

Q. Well, we have to leave that with you, to say whether you are or not. Is that simply an impression or is it a positive recollection that you have? That is all we want to know. Just state which it is, if you can.—A. What is your exact question?

Q. I want to know whether you are stating things in a positive way or giving us an impression.—A. I am, as far as my knowledge and recollection of the things will allow me, but there are a great many things that of course I can not swear to positively.

Q. As I understand you, the firing stopped, and after it had ceased for some time you looked out of the slit of your window and saw this soldier.—A. I said I was not positive whether the firing had stopped at that time altogether.

Q. You are not positive of that. It may have stopped?—A. Yes, sir.

Q. Isn't it probable that you kept pretty shady until the firing was all over?—A. Very likely; and a great many others did the same.

Q. The probabilities are, inasmuch as your recollection is not very positive about it, that you did not open up until after the firing was over?—A. Very likely.

Q. That would be natural, I suppose?—A. Very natural.

Q. Then some time later, and how much later was it, that you took a seat in the front door?—A. Possibly five or eight minutes.

Q. And at that time there had not been any companies formed behind the wall, so far as you can recollect?—A. No, sir.

Q. And it was after you took a seat in the front door, looking out toward the fort, that you heard the officers come on the parade ground and order the men to fall into line and have a roll call?—A. Yes, sir.

Q. Did you hear the bugle call?—A. I heard a bugle call before that; yes, sir.

Q. Was the firing still going on when the bugle sounded?—A. I am under the impression that it had not ceased.

Q. Had not yet ceased?—A. Yes, sir.

Q. Is it not a fact that the bugle call sounded the call to arms immediately after that first heavy firing awakened you?—A. No, sir.

Q. That is not true?—A. No, sir.

Q. You are positive of that?—A. I am positive about that.

Q. How much later was it, then?—A. All the time has to be reckoned in minutes, because it occurred so rapidly and so soon.

Q. We will not try to measure it in minutes. Did the bugle sound until after this firing you speak of as occurring in the alley near the Cowen house was over, or did it sound before that?—A. I think it was before that had ceased, when it sounded.

Q. The last thing you took in was the calling of the roll around in front of the barracks?—A. I could not say where they were reckoned, sir. I could not see them, but I could hear them plainly.

Q. Did you hear any calling of the roll down here below the gate, behind the wall where D Company was stationed?—A. I only heard one roll call.

Q. Can you tell whether it was at that point or not?—A. No, sir; I can not.

Q. If it had been at that point, you were in such a position that you could hardly have imagined it was on the other side of the gate.—A. I could not say where they were formed. It was dark in there beyond the light, by the garrison.

Q. What kind of a night was that?—A. It was partly cloudy, and dark, not any moon.

Q. It was a very dark night, was it not?—A. I don't think it was a very dark night.

Q. There was no moon?—A. No moon: no, sir.

Q. Only starlight, and a partly cloudy night?—A. Yes, sir.

Q. And this was about midnight?—A. Yes, sir.

Q. You only heard one roll call?—A. I did not stop to listen to others.

Q. You don't know whether that was down at D Company or whether it was down at the barracks of B Company?—A. No, sir.

Q. You will not pretend to say?—A. No, sir.

Q. About how many men answered to their names?—A. Everyone that I heard called.

Q. You heard every man answer to his name?—A. Yes, sir; there was an answer to every name that I heard called. Somebody answered.

Q. Did you see anybody with a lantern out there?—A. There was a lantern there.

Q. Where did you see the man with the lantern, somewhere behind?—A. It was on the walk, back of that gate, between the two barracks.

Q. Between the two barracks, you saw a lantern there?—A. Yes, sir; some place, I don't exactly remember where.

Q. Did you stay awake until the roll call was fully completed?—A. That one company roll call was all I heard.

Q. Well, I know, and then you went to bed?—A. Yes, sir.

Q. Did not wait for any more roll calls?—A. No, sir.

Q. Did you see one of the companies form and march out at the gate and go up Fifteenth street?—A. No, sir; I heard them after I went inside; I heard them go out.

Q. And had you gone to bed then?—A. I don't recall whether I was in bed, but I had gone back into my room. I think I was in the office.

Q. You did not see them?—A. No; I did not look out.

Q. But you did hear them go by?—A. Yes, sir; I imagined it was just what I found afterwards that it was—a patrol sent out.

Q. Did you hear that company return to the barracks?—A. No, sir.

Q. You did not hear it?—A. No, sir.

Q. Did you go to sleep at once?—A. I think I must have. I was very tired. My work keeps me very busy, and I did not lose any sleep.

Q. At any rate you did not hear that company come back?—A. No, sir.

Q. If they had come in and marched up Elizabeth street, you would have heard them if you were awake?—A. Yes, sir.

Q. The testimony shows there was a good deal of excitement during the night, that this company was formed here and marched out, and companies placed behind the wall immediately in front of you, and that there were several conversations, several consultations held right here at the gate, between Major Penrose and Mayor Combe and others.—A. I saw none of that.

Q. You know nothing of that?—A. No, sir; I know nothing that happened after the time that I describe.

Q. You disappeared from the scene and quit making any observations before this company was formed behind the wall?—A. Yes, sir; the first I saw of that was the next morning when they were deployed there.

Q. You found a company there the next morning?—A. Yes, sir.

Q. But you did not hear them going into position there that night?—A. No, sir.

Q. And they could not have gone into position there that night without your hearing them if you sat in this door, very well?—A. Not while I was there.

Q. If a company marched out there it would make enough noise for you to hear it?—A. Yes, sir.

Q. Did you see anybody get over the wall here?—A. No; sir.

Q. Did you see any soldiers go down Elizabeth street?—A. No, sir.

Q. Or go up this alley?—A. No, sir; the man I mentioned is the only person I saw.

Q. The only man you saw was that one man?—A. Yes, sir; no other man, citizen or soldier, or any one, about the place.

Q. Can you tell just exactly when it was in point of time, I mean as related to other events, that you saw that man?—A. Well, I don't think I could, precisely.

By Senator OVERMAN :

Q. Was it before you heard those officers coming out or after?—

A. That was before.

Q. Before the officers were calling the men out?—A. Yes, sir.

Q. You are positive of that?—A. Yes, sir.

By Senator FORAKER :

Q. At what time?—A. It was before the roll was called.

Q. You saw him before the roll was called?—A. Yes, sir. Everything was quiet in the garrison when I saw him. There had been no excitement in the quarters, no noise or anything of that kind.

Q. That is, the officers had not appeared on the scene?—A. No, sir.

Q. And there was no bugle call?—A. No, sir.

By Senator TALIAFERRO :

Q. It was before the bugle call and call to arms?—A. Yes, sir; it was before the bugle call.

By Senator FORAKER :

Q. And before the roll call?—A. Yes, sir.

Q. What kind of a looking man was that soldier; how big a man?—A. He was ordinary size, or rather below the ordinary size of a soldier.

Q. Looked like a boy, didn't he?—A. Rather boyish looking.

Q. Haven't you testified that he was a very small man; appeared almost like a boy?—A. I don't remember, but that is my idea of it as I saw him; that he was a small man.

Q. Now, you say that you judged he was a soldier—that is the expression you used in testifying a moment ago—from the way he carried his gun?—A. Yes, sir.

Q. Are you sure that it was a gun he was carrying?—A. As sure as I could be sure of anything that was plain in my vision.

Q. You said you knew he was a soldier—that is, you judged he was a soldier. You have not any doubt on that point, then, I imagine?—A. No, sir.

Q. You say you had a conversation with Captain Macklin the next morning?—A. Yes, sir.

Q. Where was that conversation held?—A. He was leaning over the reservation wall just above the large gate, and I saw him in the morning, and I had not up to that time heard what had happened in the town; knew nothing about it, and as I thought the soldiers had been turned in I thought Captain Macklin could give me the information. I walked over there and asked him what had happened, and he replied as I have stated.

Q. (Referring to the map.) Now, that was about here somewhere?—A. Yes, sir.

Q. Right opposite your place?—A. No, sir; on the other side of the gate.

Q. Below the gate?—A. Yes, sir.

Q. He was on the lower side?—A. Yes, sir.

Q. And you crossed down to there?—A. Yes, sir.

Q. About what time in the morning was that?—A. I should say about 8 o'clock; about the time I opened my office.

Q. That was long after sunrise?—A. Oh, yes.

Q. You were not there early in the morning?—A. I don't remem-

ber; it might have been earlier. I got up early, and long before office hours.

Q. You did not know that anything had happened to cause any excitement?—A. No, sir; I had seen no person from uptown to tell me anything about it. What he told me was the first I knew about it.

Q. Didn't you make any inquiry before you went to bed?—A. I had no one to make any inquiry of. I looked up the street and saw no one on the street, no excitement anywhere, and I did not have curiosity enough to go out to see what it was.

Q. You heard them calling the roll, but did not think of making any inquiry yourself; just went off to bed?—A. It would hardly have been right for me to go over to the garrison, asking questions, and it might not have been safe. There was no person near me except the old lady and gentleman who occupied the room upstairs. I heard them walking around. That is all the persons I saw or heard.

Q. Did you talk with either of them that night?—A. No, sir; I did not see them at all.

By Senator BULKELEY:

Q. You testified before the Penrose court-martial?—A. Yes, sir.

Q. Is this correct [page 100]: "Q. Do you know whether it was a gun or not?—A. I couldn't swear if it was a gun or not—might have been a stick."—A. That is one of Major Glenn's questions that he asked me, and I told him I was as certain it was a gun—while it could have been made of wood or a stick or such things as that, that I knew a gun when I saw it and was willing to state it was a gun.

Q. Then this testimony as quoted here is not correct?—A. I don't think that answer is correct. I think I should not have made such a silly answer as that to any question.

Q. He asked you:

Q. What did this lone soldier have in the way of arms when you saw him?—

A. A piece of some kind—a gun.

Q. What kind of a gun?—A. I couldn't say.

Q. Do you know whether it was a gun or not?—A. I couldn't swear if it was a gun or not—might have been a stick.

Q. Might have been a club?—A. It might have been—at that distance—but it had the appearance of a rifle.

A. He asked me if it was not a club, if it was not a stick, if I saw that gun, and I told him hardly any man could swear that a gun was not made out of a stick, unless he was close enough to examine it.

Q. This report quotes you as answering the question that you could not swear it was a gun, but that it might have been a stick. That is not correct?—A. That is not correct.

By Senator OVERMAN:

Q. A little farther down you say:

Q. I want you to tell this court everything that you saw of that thing that you have described as a gun, and everything that led you to believe it was a gun and not a club.—A. Well, there doesn't seem to be much to say about it. It had all the appearance of a gun to me.

Q. Tell us what the appearance was.—A. It looked very much like a gun.

That is correct, is it?—A. I am willing to swear to anything that appeals to my vision, as close as it was.

Q. I quote from page 101:

Q. Tell us what the appearance was.—A. It looked very much like a gun.

Q. Wherein?—A. From the shape and its length.

Q. What was its length?—A. I didn't have an opportunity to measure it, sir.

Q. Give us your judgment?—A. An ordinary piece used by the soldiers.

Q. Tell us what variety—we use a great many.—A. I am not familiar enough with them to tell the difference.

Q. What was its length?—A. I do not know.

Q. Do I understand that you decline to state the length of this piece?—A. Not at all; I have described it as near as I could.

A. You can imagine, on a witness stand, how you would stand before a man who was asking such questions as that.

By Senator BULKELEY:

Q. He asked you the length of it, and you say, "I can't tell the length of it." You testified here, I think, that you saw him doing something with the magazine, didn't you?—A. Yes, sir.

Q. Now, the question was asked you—

Q. We have asked you for the length of it.—A. I can't tell the length of it.

Q. The color of it?—A. No, sir.

Q. Could you see the hammer?—A. No, sir.

Q. The barrel?—A. No, sir.

Q. Could you see crooks in it?—A. No, sir.

Q. It might have been perfectly straight?—A. It might; yes, sir.

Q. Was it black or light colored?—A. It looked black or dark colored to me.

Q. All the distance—its whole length?—A. I didn't observe it close enough to answer those questions, sir. I merely say that it appeared to me to be a gun.

Senator FOSTER. What page is that?

Senator BULKELEY. Page 101.

By Senator FOSTER:

Q. On page 100, near the bottom of the page:

Q. Describe it so that the court and all may know—what was the manner of his carrying it? Describe that.—A. I saw him just before he went through the gate—he was looking down at his right hand—it was resting on the stock of the piece, as though he was doing something with that hand. I didn't see him distinctly at that time, and I couldn't tell what he was doing.

By Senator BULKELEY:

Q. If you saw him distinctly at that time, you could tell what he was doing?—A. What I meant by that answer was that I could not see the rifle plain enough to know whether he had the magazine open or what he was doing with it; but he was doing something with his right hand.

Q. You could not see the hammer, or the barrel, or any of the crooks in it, or the length of the rifle, or anything of that kind?—A. No, sir.

Q. In fact, it was a pretty dark place, was it not?—A. Not so dark; no, sir.

Q. It was not?—A. It was not dark; there is a light over that gate. When a man has to make an answer to some of the questions such as Major Glenn asked me, it puts you to your ingenuity to find something to say.

Q. You do not mean to tell anything but the truth to a question that anybody asks, do you?—A. No, sir.

Q. So, if you said you could not see distinctly, it was true, was it not?—A. Well, any man could hardly distinguish the hammer of a rifle at that distance.

By Senator LODGE:

Q. (Referring to the Springfield rifle in evidence before the committee.) I should like to ask this witness and also Senator Bulkeley what he calls the hammer on that gun?

Senator BULKELEY. I have not called anything the hammer. I was reading the testimony before the Penrose court-martial.

Senator LODGE. It is a hammerless gun.

The WITNESS. I did not refer to the hammer.

Senator BULKELEY. I was asking the witness what he testified to.

Senator LODGE. You said he did not see the hammer. He could hardly see a hammer which was not there.

Senator BULKELEY. Was the barrel there?

Senator LODGE. I take it the barrel was there.

By Senator FRAZIER:

Q. Was there a light over the small gate?—A. No, sir.

Q. There has been some testimony that there was also a light over the small gate?—A. No, sir; no chance for a lamp there. There is a lamp-post on each side of the larger gate.

Q. You have not any doubt about this being a gun?—A. Why, no, sir; none at all.

Q. Nor that it was a soldier?—A. None in the world. Of course if you corner a man down to swear to certain details, he does not want to perjure himself.

Q. I understand, but you have no doubt in your mind that he was a soldier and had a gun?—A. Not the slightest.

Q. And that he was doing something with the chamber of the gun, either cleaning it or something?—A. Without any prejudice or any feeling in the matter, that is what I have testified to.

By Senator FORAKER:

Q. Do I understand you to be asked whether he was cleaning his gun?—A. No, sir; I was not asked that question.

Q. You did not see him making any motions like he was cleaning his gun?—A. I don't know what he was doing with his hand at the butt of the gun.

Q. Whatever he had in his hand, he was carrying it in his right hand?—A. He was carrying it across him, when I saw him, at "arms port," with his right hand at the butt of the gun, and looking down there, and my impression was that he had the magazine open, or whatever the rifle is, what kind it may be.

Q. Did you ever before testify that he was looking at the magazine, and that you had the impression that the magazine was open?—A. I don't think so.

Q. This is the first time you have ever made such a suggestion, is it not?—A. Why, yes; I think I testified before, except that I did not mention the magazine, because I know nothing about the arm.

Q. Did you see him make any motions at all as though he were trying to clean the gun?—A. No, sir; except that he had his hand here [illustrating].

Q. He was carrying it in front of him?—A. He had it thrown in front of him in this way [illustrating].

Q. With his left hand up toward the muzzle and his right hand down toward the butt of the gun?—A. Yes, sir.

Q. Show us how he was carrying it?—A. (Illustrating.) About this way, and he was looking down here toward his hand.

Q. He was looking down there?—A. Yes, sir.

Q. Did he have a hat on?—A. He had a campaign hat; yes, sir.

Q. How was he dressed?—A. He was dressed in khaki uniform—the undress uniform.

Q. Did he have on a blouse?—A. I am not positive. I know he had the leggings and trousers of khaki.

Q. He had on leggings, had he?—A. Yes, sir.

Q. And khaki trousers?—A. Yes, sir.

Q. And did you notice what kind of a shirt he had on?—A. I am trying to recall. I don't really remember whether he had a blouse or a colored shirt.

Q. You saw him just while he was taking about eight or ten steps?—A. Yes, sir.

Q. From the time you first saw him until he passed out of sight through the gate?—A. Probably a little longer distance than that—probably 15 or 20 steps.

Senator FORAKER. That is all.

By the CHAIRMAN:

Q. They have been reading to you your questions and answers before the Penrose court-martial, and I notice that the last question and answer was as follows. I want to see if this is what you thought then and what you say now. The question was, "You can not swear distinctly that he had a gun?" And your answer was, "He had something that resembled a gun; it looked like it, and I believed at the time and I do now that it was a gun."—A. Yes, sir.

Q. That was your testimony then and that is what you believe now, is it?—A. Yes, sir. Under such a cross-examination as they gave me it was pretty hard to answer those questions, as to the curve that the gun had, and the hammer, and all those things.

Senator WARNER. That is all.

TESTIMONY OF DR. CHARLES H. THORN.

Dr. CHARLES H. THORN, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Please give your name in full.—A. Charles Hightower Thorn.

Q. What is your age?—A. Fifty years. I was born November 2, 1856.

Q. What is your profession, if any?—A. I am a dentist.

Q. Where is your home?—A. Brownsville, Tex.

Q. How long have you resided in Brownsville, Tex.?—A. I have lived there since 1883.

Q. Are you a native of Texas?—A. No; I was born in Arkansas, but raised in Texas.

Q. Have you been engaged in the practice of your profession there?—A. Yes, sir; since 1883.

Q. Do you have a reasonably fair acquaintance in Brownsville?—A. Oh, yes.

Q. What is the number of the inhabitants of Brownsville?—A. At present between eight and nine thousand, I think. The last census, I think, gave it 6,000.

Q. As a matter of general information—I do not suppose you know exactly—about what proportion of the inhabitants are Mexicans?—A. They are very largely Mexican now. Before the railroad came there, four years ago, I suppose at least four-fifths of them were Mexicans. Now there is a larger proportion of Americans there.

Q. What proportion of the Americans there are Americans?—A. I suppose probably one-third of them might be Americans at present. It is difficult to say.

Q. When you speak of Mexicans, do you include among those what you might call of mixed blood?—A. No; on the contrary, you will find a great many people down there whose mothers are Mexicans, and they do not like to be called Mexicans at all. They claim to be Americans, and they will speak of others that are full-blooded Mexicans as Mexicans.

Q. You refer to those who were born there of American fathers?—A. Yes, sir.

Q. Now, the character of that population, as to being orderly and law-abiding, what is your judgment of that?—A. Before I went there I had lived in other western Texas towns out on the border, and Brownsville is a very quiet place in comparison with some of the others. We very seldom have any difficulties there. In fact, while the Mexican people drink to excess frequently, they are not a quarrelsome people.

Q. Is it not a fact that a very considerable percentage of the American people there are from the North?—A. Oh, yes. Even some of the old citizens are men that went down there as soldiers and remained there after the war, and then, since the railroad came four years ago, we have a good many men who have come down from the North and have invested in property there and remained, making it their home.

Q. Did you have any prejudice against the colored soldiers coming there, the Twenty-fifth, when they took the place of the Twenty-sixth Infantry?—A. No, sir; I did not.

Q. Did you ever hear of any threats or anything of that kind being made as to those soldiers coming there?—A. None at all.

Q. Are you a married man?—A. No; I am a bachelor.

Q. Do you know something of the society at Brownsville?—A. Oh, yes; certainly.

Q. Now, about the families there socially, what is their standing?—A. Well, there are quite a number of nice families there. Of course in Matamoros and Brownsville there are a great many families that are Spanish, and they consider themselves, of course, superior to the ordinary Mexican population, do not associate with them, and those families and the American families associate more or less; but frequently the American families do not understand Spanish, and some of those best Spanish families understand very little English. Consequently the association is somewhat broken on that account, but in the large balls and receptions and things of that kind, of course, they are invited and attend those, both the Americans and the Spanish, and the best Mexican families.

Q. Where did you room in Brownsville? Where was your lodging place?—A. In my house, near Miller's Hotel.

Q. Where?—A. My house is near the Miller Hotel.

Q. Now, Doctor, in order that we may know definitely, you see the map there and you see Washington, Adams, and Elizabeth streets marked on it?—A. Yes, sir.

Q. And the Garrison road, Fourteenth, Thirteenth, and Twelfth streets marked there?—A. Yes, sir.

Q. Now, the Miller Hotel is marked with a couple of circles?—A. Yes, sir. No. 5, and two circles. That is the Miller Hotel. That is on the corner of Thirteenth and the alley, and No. 4 there, would be about where my kitchen is. No. 3 represents the Leahy Hotel.

Q. No. 3, at the corner of Elizabeth street and Fourteenth, that is the Leahy Hotel?—A. Yes, sir.

Q. And your office is at No. 4?—A. That represents my kitchen, there, I suppose.

Q. That is the kitchen?—A. Right on the alley.

Q. But your house fronts on Elizabeth street?—A. Yes, sir.

Q. And between Thirteenth and Fourteenth streets?—A. Yes, sir.

Q. During the night of August 13 of last year did you hear the shooting that occurred in that night?—A. I did.

Q. Please proceed now in your own way and tell us where you were, and how your attention was called to it, and what you heard or saw.—A. I was using the dining room, next to the kitchen, as a bedroom, and I had retired, I don't know exactly how long before the firing commenced. I had not gone to sleep. I was just about to drop off to sleep when I heard firing. I paid so little attention to it at first that I did not raise up at all, did not even turn over, but when it kept on and I heard more firing, of course I began to think something was up, and I raised up in bed and listened, sat up in bed, and after a while I found the firing was coming nearer.

Q. Coming from what direction?—A. You see the garrison was on my right. My bed was down this way—was up toward the alley, The firing was on my right.

Q. Coming from the direction of the garrison?—A. It was on my right, toward the garrison. At first, when I heard the firing, before I raised up in bed, I supposed that the firing was a little farther off. It sounded farther off, of course, being broken by the buildings, and then my lying down, perhaps had one ear on the pillow. Anyway, I thought it was farther off than I afterwards discovered it really was, and it seemed also a little farther down to the left—that is, down a block or two farther to the left. It seemed that way at first, but after I raised up in bed I discovered that it was not only nearer, but right down apparently toward the end of the alley.

Q. Toward the end of the alley?—A. Yes, sir.

Q. That is, toward the end of the alley and garrison road?—A. Yes, sir.

By Senator SCOTT:

Q. (Referring to the map.) That would be over here?—A. Yes, sir.

By Senator WARNER:

Q. Proceed.—A. But the firing generally was up in that direction, right toward the garrison, and it came nearer and nearer, and I was thinking about putting on my slippers and looking out into the alley, but I did not find my slippers readily when I felt for them with my

feet, and while I was also listening to the firing, as it came on, every now and then there would be some shots fired, and at first, before I raised up in bed, I did not distinguish what the shots were—whether pistol shots or what they were. I at first supposed they were pistol shots, policemen having trouble in trying to arrest some one, or something of that kind. In fact, the lieutenant of police tried to arrest a soldier, I think, of the Twenty-sixth—I don't remember now whether it was the Twenty-sixth or some other regiment that had a company stationed down there two or three years ago—and right in that neighborhood this soldier shot him. There were a number of shots fired then, and the officer was shot through the arm, and I just had the idea at first that it was something of that kind; but after the shots continued I raised up in bed and discovered that the firing was from high-pressure cartridges.

I could distinguish it very readily; and after a while, when there was such a number of them fired, I concluded that the soldiers were trying to terrify the police, to run them off, and so I thought I would go up and look out, and just as I was about to put on my slippers—I don't remember whether I had just found the slippers and was about to put them on, or just remembered that the slippers were really on the opposite side of the bed from where I was, and feeling for them with my feet, when I heard them talking just outside in the alley. There was a window and a door.

Q. In that number 4 there?—A. (Referring to the map.) Yes, sir; right there, a window and a door facing on the alley.

Q. A window and a door in the kitchen part, facing in the alley?—A. Yes, sir. There is a shed there, and that dividing line divides the shed from the kitchen. There is a door opening from the shed into the alley, and also a door opening from the kitchen into the alley, and then there is a window also opening into the alley. The window was up and the blinds were closed, but the slats were open so as to let the air in, and I could hear without any difficulty, although they were talking in a low tone of voice. I might even have distinguish what they were saying.

Q. What did you hear?—A. I did not pay any particular attention at first. I could tell from their voices that they were negroes talking to themselves, and one of them spoke in a loud tone of voice, referring evidently to some one who was down the alley or in the street, saying, "There they go." or "There he goes," I don't remember which it was, but one or the other, and another one said, "Give'm hell." Now, whether he intended to say, "Give them hell," or "Give him hell," it was said quickly, you know, and I don't remember or did not catch it exactly; but anyway it was an expression of that kind—"Give'm hell." give them hell or give him hell—and then there was either the same voice or another added, "God damn'm." There was firing just about that time, and whether that was simply an exclamation, "God damn," or "God damn him." I don't know, but I thought that was an expression used just as they were firing. After that there was a good many shots fired, and I could not hear any more talking. They went on down to the left.

Q. Now, you heard those voices?—A. Yes, sir.

Q. Did you then at that time form an opinion in your own mind as to whether they were white men or colored men?—A. Oh, I was satisfied, perfectly satisfied, that they were negroes, from their voices.

Q. You entertained no doubt of that?—A. No doubt, whatever.

Q. Now, Doctor, did you that night find out that the lieutenant of police had been shot?—A. Yes, sir. I did not go out, but he was an old friend. I had known him for a long time, and knowing that he had been shot before, and that he was riding a white horse, he was the only man that I was uneasy about. My mother was alarmed, and I went to her door and talked to her a while, and I told her I was afraid that this policeman might be hurt, or even killed, and afterwards I went into my room again and thought I would dress and go out and find out who was hurt, and something about it; but just at that time I heard people on the street, talking about it, and I heard some of them say that Joe Dominguez had been shot in the hand and his horse killed, but no one else was hurt. Of course the latter part of that was a mistake. I did not find out that Natus had been killed until the next morning, when I went to market. But when I heard that Dominguez had been shot in the hand and his horse only was killed, I concluded it was not worth while to dress and go out at all, so I went back to bed.

Q. Did you the next morning see where his horse was shot?—A. Yes, sir; I saw them dragging the horse off as I came home from market.

Q. Where was that with reference to your house—that is, to the alley?—A. Well, it is about where that star is there on the map.

Q. What is that?—A. It is about where that star is. I suppose that star represents a lamp-post, but it is about the corner, about the end of the letter "T," there.

By Senator LODGE:

Q. You mean this star [indicating on map]?—A. No, sir; the other one. About the latter part of that "T" is where it was.

Q. This was on Elizabeth street, and near the corner of Elizabeth and Thirteenth streets?—A. Yes, sir. It is about 15 or 20 feet from that lamp-post.

By Senator WARNER:

Q. Calling those streets, as we have been pleased to do here, running north and south—those are not the exact points of the compass—A. No, sir.

Q. (Continuing.) It would be a half a block north and a block west of your house, where you found him?—A. No; that would not be north; it would be almost due west from my house.

Senator FORAKER. You are counting from the alley.

By Senator WARNER:

Q. Pardon me, I was facing your house on the alley. Your house faces on Elizabeth street?—A. Yes, sir.

Q. That is my mistake, Doctor. It was half a block west, or north as we are calling it now?—A. North would be up—

Q. We are calling these streets north and south [indicating on map].

The CHAIRMAN. Gentlemen, let me say now all of these witnesses are confused about the points of the compass, and if you would call

attention to that arrow there it might save trouble. What we call north is really northwest, and every witness has to have it explained to him.

By Senator LODGE:

Q. Is the house here [indicating]?—A. Yes, sir; the front of the house.

Q. The house is there?—A. Yes, sir.

Q. The map is defective in showing it where it does.—A. That is a kitchen; that is on the alley.

By Senator BULKELEY:

Q. Does it run all the way through?—A. Yes, sir.

Q. From Elizabeth street to the alley?—A. Yes, sir.

By Senator WARNER:

Q. Doctor, how far was your bed, where you were at the time you heard these voices, would you judge?—A. From my bed to the back part of the kitchen?

Q. Yes.—A. It was from 35 to 45 feet; somewhere along there.

Q. And you heard these voices distinctly?—A. Yes, sir.

Q. Then, which way did the shooting continue after that; what direction?—A. It continued on down toward the Miller Hotel—that is, down toward Thirteenth street.

Q. From your place toward Thirteenth street?—A. Yes, sir.

Q. How long did the shooting continue after that? If you have an idea, please give it to us.—A. It continued probably a minute or so and then there was an intermission and it commenced again—after probably an intermission of a couple of minutes it commenced; there was another volley or two fired, and then after a little while there were scattering shots; but altogether I guess the firing must have continued ten or fifteen minutes.

Q. And about how many shots would you say?—A. That was impossible to tell. I did not even try to count them, because, of course, it would have been possible to have counted the scattered shots, but every once in a while there would be a volley fired, and you could not tell whether there were a dozen shots or twenty.

Q. What do you mean by a volley?—A. I mean a number of men firing all at the same time.

Q. Are you a sufficient judge of firearms to say, when you got up there, as you say, after being wakened up and aroused, whether those reports were from high-power guns or not?—A. Yes, sir; I could distinguish it very readily.

Q. You did not see any of the parties, as I understand, Doctor?—A. No one at all.

Q. When you heard those voices of people walking—marching past—could you form any definite idea as to the number there were in that body?—A. No, sir. The alley there is not paved. It is just dirt, and there is more or less dust, and men walking there—I do not believe you could hear them unless they were walking fast, running or something of that kind, and I do not remember hearing any footsteps at all.

Q. So that you could not form any idea of the number?—A. No, sir.

Q. I presumed not. What is the width of that alley? I think it

is about 30 feet; I do not know.—A. About 30 feet? I never measured it. I think it is about 16 feet wide. I have heard estimates all the way from 22 to 16 feet. I never measured it.

Q. From 16 to 22 feet. Of course you do not pretend to give a definite measurement, you say?—A. No, sir; I know it is wide enough for two vehicles to pass.

Senator WARNER. That is all.

By Senator FORAKER:

Q. Doctor, how long have you lived there in Brownsville?—A. I have lived there since February, 1883.

Q. 1883?—A. Yes, sir.

Q. And you are well acquainted?—A. Yes, sir.

Q. You are a dentist, I believe, by profession?—A. Yes, sir.

Q. Now, can you tell us where the Merchants' National Bank corner is?—A. The Merchants'?

Q. Yes.—A. Yes, sir; it is on the corner of Twelfth street and Elizabeth street.

Q. Twelfth and Elizabeth?—A. Yes, sir.

Q. Is that one of the principal corners in the city?—A. Yes, sir.

Q. It fronts on Elizabeth street and Twelfth street?—A. Yes, sir.

Q. That is about in the business center of town, is it not?—A. Yes, sir.

Q. Where is the public square, with reference to that?—A. A public square?

Q. Have you one there?—A. No, sir.

Q. Where is the station house where the guard assembles?—A. Oh, that is in Market Square.

Q. Market Square, is it?—A. Yes, sir.

Q. Where is that? Is it out Washington street or out Elizabeth street?—A. No; it is just above that letter "W" there.

Q. Right there [indicating on map]?—A. Yes, sir.

Q. Does it front on Washington street?—A. There is no alley there. That alley is not continued out there at all, but right where that alley is on the map, there is the Market Square.

Q. There is no alley between Adams and Washington streets, north of Twelfth street?—A. There is not at that place. From Twelfth street back this way, to the right, the alley runs, but there is no alley above.

Q. The Market square extends from Washington up to Adams street?—A. Yes, sir.

Q. And it is north of Twelfth street?—A. Yes, sir.

Q. Then we have that located. Now, you never heard any objection. I understood you to say, to the colored soldiers coming there?—A. No. I have no doubt there was objection, mostly by the people, newcomers, you know, that had moved in there.

Q. Did you ever hear anybody make objection?—A. It is possible I did. I do not remember it, however. I do remember, on the contrary, hearing several people speak, saying that they were glad of their coming, giving their reasons for it.

By Senator WARNER:

Q. Pardon me. You said giving their reasons for it. What were those reasons?—A. The principal reasons were that for a great many

years we had had very few soldiers at Brownsville. Frequently, particularly during the Spanish war, there were only a dozen or so there, to do police duty, a part of a company, and when we heard that we were going to get four companies down there, and the post was being fixed up, naturally we were glad. And so far as the negro soldiers were concerned, we did not care much whether they were negroes or white soldiers, because the officers and their families would be white, and we did not associate with any of the others. The merchants, at least two of them that I remember I heard, expressed themselves in this way, that they would get more money out of the negro soldiers than they got out of the white ones; that the white soldiers spent most of their money with the saloon keepers.

By Senator FORAKER:

Q. Who were those two merchants?—A. One of them was Aaron Turk.

Q. What was his business?—A. He was a dry goods man.

Q. Who was the other one?—A. Oscar Suder.

Q. What kind of business was he in?—A. A similar line of business—dry goods and notions, and also a millinery establishment.

Q. Are you acquainted with George Champion?—A. Very well; yes, sir.

Q. What business is he in?—A. George Champion?

Q. Yes.—A. He is in the real estate business.

Q. Where does he have his office?—A. He has his office—I think it is in the San Roman Building. He makes his headquarters there.

Q. Where is that building?—A. Between Twelfth and Thirteenth streets, right about the middle of the block.

Q. You know F. E. Starck?—A. Oh, yes, sir.

Q. His house was fired into that night?—A. Yes, sir.

Q. We have that located already?—A. Yes, sir.

Q. Do you know Mr. McClain, a school-teacher?—A. McClain?

Q. McClain; yes.—A. I know a McClain, but not a school-teacher.

Q. Where does he live, in Brownsville?—A. Yes, sir.

Q. Do you know a McClain who lives at Santa Maria, a school-teacher?—A. Oh, at Santa Maria? Yes, sir.

Q. You know him?—A. Yes, sir.

Q. How far is that away?—A. Santa Maria?

Q. Yes.—A. It is 28 or 30 miles.

Q. You have seen him frequently in Brownsville?—A. Yes, sir.

Q. Do you know a Mr. McDonough?—A. Yes, sir.

Q. What is his business?—A. He is a carpenter.

Q. Do you know him?—A. Yes, sir.

Q. Do you know a Mr. Charles Falgout?—A. Yes, sir.

Q. You know all those men?—A. Yes, sir.

Q. Do you know Mr. Neil?—A. Yes, sir.

Q. I will ask you if you have any recollection of seeing all those men assembled, with a number of others, at the Merchants' National Bank corner, shortly before the colored troops came there?—A. At one time? I do not remember. In passing there, up and down the street, you will frequently see a group of half a dozen to a dozen men standing at that corner.

Q. I will ask you if you were not present as one of a group of as

many as twenty to thirty men on that corner on July 27, about 7 o'clock in the evening, when the coming of the colored troops was being discussed?—A. I am pretty sure I was not.

Q. You do not remember that?—A. In the first place, I would not have stayed there any length of time.

Q. You might have been there a short time?—A. In passing by I might possibly have stopped for a minute or so.

Q. If there was any such gathering, you were not in it?—A. No, sir.

Q. Do you remember seeing a couple of policemen come up and join the group at that place at any time?—A. No, sir.

Q. Are you acquainted with the policemen of Brownsville?—A. Yes, sir.

Q. Do you know one by the name of Fernandez?—A. Yes, sir.

Q. Did you ever hear him speak about the coming of the colored soldiers at any time?—A. No, sir; I never did.

Q. You never heard him express himself about it?—A. No, sir.

Q. Did you ever see him, in connection with any conversation, exhibit any kind of a weapon?—A. No, sir.

Q. You never heard anything of that kind?—A. I never saw him with a weapon, that I remember.

Q. Of course, Doctor, if you do not know anything about that, I can not examine you about it. As I understand you, you did not see anything that night; you only heard?—A. I don't remember anything that occurred that night at all.

Q. No; I am talking about the night of the shooting.—A. The night of the shooting?

Q. Yes.—A. Oh, yes.

Q. You did not see anybody; you simply heard?—A. I simply heard.

Q. And you were sleeping in a room from 35 to 45 feet from where these men passed?—A. The bed was about that far off, I think.

Q. The bed was?—A. The bed was in the middle of the room.

Q. And when you first got awake you heard considerable firing, but you did not get up?—A. Yes. If only two or three shots had been fired I would not have roused up at all, you know.

Q. Yes. That was because you had heard firing down in that neighborhood before?—A. Well, yes, sir.

Q. And you did not think that was anything unusual?—A. Not especially. Of course I thought it was farther off than afterwards found out it was.

Q. I understood you to say that Brownsville was an unusually quiet town. No, I will not say unusually, but it compared favorably with other towns in Texas for quietness?—A. Yes, sir.

Q. You think it is rather above the average town in that respect, do you?—A. I think it is; yes, sir.

Q. That is what you would have us understand?—A. Yes, sir.

Q. Can you tell us what Senator Culberson probably meant when, in a telegram dated August 19, 1906, to the Secretary of War, he commenced with this sentence:

Some time ago I called your attention to the danger of locating negro troops in Texas, especially at Brownsville.

What do you suppose he had in his mind?—A. Well, he might have heard of something that occurred up at Ringgold, just up above there, but I do not know why he should have said that.

Q. You do not know of anything that would justify him in singling out Brownsville and speaking of that as an especially objectionable place for sending colored soldiers?—A. No, sir; I certainly do not.

Q. Were you living there when colored soldiers were there before?—A. Yes, sir.

Q. Was there any trouble with them at that time?—A. None whatever. They were very quiet and orderly. I frequently remarked that that troop of colored soldiers we had there under Captain Ayres were much more orderly and better behaved soldiers than any of the volunteers we had down there.

Q. Nearly all the soldiers that have been there, white or black, have had, I suppose, more or less trouble, especially with the police?—

A. I do not remember any trouble whatever that that troop of colored soldiers under Captain Ayres had while they were down there; but the others, of course, were now and then in trouble, and they would get into fights among themselves. One man stabbed a man in a saloon there, and he died on the sidewalk, right between my place and the garrison gate.

Q. And they got into trouble with the police, did they not?—A. Yes, sir.

Q. And they had to arrest them frequently?—A. Yes, sir. Naturally they would drink too much, and had to be arrested.

Q. One of the reasons that the people were glad to hear the colored troops were coming was that they were going to have four companies, you say. You already had four companies, did you not?—A. Well, we had four companies for a little while.

Q. You had had three companies for two or three years?—A. I do not remember whether there were three there or not. I know when Fort Ringgold was abandoned the two companies that were up there came to Fort Brown, but they only stayed there a month or so, and then they went to San Antonio. They were of the Twenty-sixth Infantry.

Q. According to the record here there were three companies there for quite a while, and the fourth company had been brought down from Fort McIntosh or Fort Ringgold, so that you already had four companies there; so that it was only a matter of exchanging four white companies for four colored companies?—A. Yes, sir.

Q. That would not make much difference, then, as a reason why you would welcome the colored soldiers. Now, Doctor, you have been examined and cross-examined repeatedly, first before the citizens' committee, then by Mr. Purdy, then again before the Penrose court-martial, and now, finally, here?—A. Yes, sir.

Q. Have you seen your testimony as it was taken, and has been printed?—A. Yes, sir.

Q. It is all correct?—A. No, sir.

Q. Is it not?—A. No, sir; there are mistakes in nearly all of it.

Q. I wish you would point out, if there is anything material in it, just what it is.—A. I do not think it is material, but at the same time there are mistakes.

Q. I do not want to detain you to cross-examine you, if the cross-examinations which have been made elsewhere are correct.—A. There is one mistake there, the greatest mistake.

Q. About what?—A. The greatest mistake is one made in the court-martial trial.

Q. In the proceedings of the court-martial?—A. Yes, sir.

Q. What is that?—A. It says that in my testimony before the citizens' committee I said that I dressed and went out in the street. I did not do anything of the kind.

Q. You did not dress and go out in the street?—A. No, sir.

Q. Is there any other correction you want to make?—A. The only other mistake there is in the examination before Mr. Purdy. That really was my mistake. It did not amount to anything.

Q. What was it?—A. I got two men confused in my mind. I said, in speaking of why I was up late that night, that I had been to a meeting, a called communication of the lodge, and Mr. Moore, of the hotel there, had taken his first degree. It really was not Mr. Moore, but a sergeant by the name of Garrett O'Reilly, who took his first degree that night. My attention was called to it afterwards.

Q. Is there any other correction that you want to make in your testimony?—A. I do not remember anything. That was my mistake.

Q. Then your cross-examination as it has been reported, subject to these corrections, is all right?—A. Yes, sir.

(The witness was excused, and finally discharged.)

TESTIMONY OF M. YGNACIO DOMINGUEZ.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Give your name in full.—A. M. Y. Dominguez.

Q. What is your age?—A. This October I will be 58 years of age.

Q. You live in Brownsville?—A. Yes, sir.

Q. What official position do you hold there?—A. Lieutenant of the police.

Q. How long have you been on the police force?—A. I have been several times on the police force. I have been twice in different capacities, in the custom-house as inspector, and as jailer and deputy sheriff for ten years. On the police force I have been about twelve or fifteen years and four years in the custom-house.

Q. Four years in what?—A. In the custom-house, as it is called.

Q. That is, the United States custom-house?—A. The United States custom-house at Brownsville.

Q. How long have you been now continuously on the police force?—A. I have been for at least the last eight or ten years; about eight years, sir, this last time.

Q. In what official position?—A. Lieutenant of the police.

Q. All the time as lieutenant of the police?—A. Yes, sir; this last time. At first I was—

Q. Yes; but this last time I am speaking of.—A. Lieutenant of police; yes, sir.

Q. Now, Lieutenant, you know of what has been termed the shoot-

ing up of Brownsville on August 13 last year. You know of that occurrence?—A. Yes, sir.

Q. I wish, Lieutenant, in your own way, commencing with the first August, 1906, about eight minutes before 12 o'clock I was at the market—what you saw and what you heard.—A. On the 13th of August, 1906, about eight minutes before 12 o'clock I was at the market waiting to hear the bell ring at the schoolhouse so that I could ring the bell at 12, generally they ring the bell at 12, and at eight minutes to 12, as I said, I heard some shooting down toward the garrison. Shall I proceed?

Q. Yes; go ahead. Not too fast.—A. I proceeded toward the garrison on Washington street, and when I got to Fourteenth street the shooting had stopped—they had been shooting before that—and I found Policeman Padron at Fourteenth street, and I asked him what was all the shooting about. It had stopped then.

Q. What policeman was that?—A. Padron. He told me that they had just gotten through shooting at Mr. Cowen's house—the soldiers, the United States colored soldiers—and I was on the middle of the street—Fourteenth street—while he was talking.

By Senator FRAZIER:

Q. Were you on your horse or afoot?—A. I was on horseback. Then he told me to get away from the middle of the street. He says, "They will shoot you if you stand in the middle of the street." So I covered myself against the fence at the street corner, and I got off my horse and girthed my saddle.

Q. What was the color of your horse?—A. He was a gray horse, a large gray horse.

By Senator OVERMAN:

Q. You got down and did what?—A. I got down and girthed the saddle, and just as I got off the horse I saw four soldiers run past, you know, from the corner of Cowen's alley, which runs into the Miller Hotel alley—run right across.

By Senator LODGE:

Q. One moment. You were here [indicating on map]. This is Fourteenth street and this is Washington street, and you were here [indicating]?—A. Yes, sir.

Q. Where were you?—A. I was on the middle of the street.

Q. Right here [indicating]?—A. Yes, sir; and from there I returned to the corner of Fourteenth street.

Senator WARNER. That is on Washington street.

Senator LODGE. Yes, that is on Washington street; and he came down and stopped right there [indicating].

The WITNESS. Yes, sir; and then I returned back.

Senator WARNER. Just let him point out the corner now.

The WITNESS. This is Fourteenth street right here, and there is an alley farther down this way, where the soldiers were coming, which is between Fourteenth street and—

Senator FORAKER. I can not understand him. I do not know what he says about this alley.

Senator LODGE. He says there is an alley farther down which is not shown on the map.

The WITNESS. That alley is between Washington street and Elizabeth street.

By Senator LODGE:

Q. You have gotten mixed up. Here is Washington street and here is Elizabeth street and here is the alley between them, here [indicating].—A. I was on Fourteenth street, sir, on Washington street.

Q. Right there [indicating]?—A. Yes, sir.

Q. And the soldiers came up here [indicating]?—A. Yes, sir; they came up there.

By Senator SCOTT:

Q. They came up Fourteenth street or up the alley?—A. I came as far as that and stopped [indicating].

By Senator WARNER:

Q. I believe that if I am permitted to examine the witness, I can get what I want from him. Then you came back from there?—A. I went from the middle of the street to this corner and girthed my saddle, and then I returned on Washington street from Fourteenth street to Thirteenth street.

Q. To Thirteenth street?—A. Yes, sir.

Q. Go on.—A. And there I turned on Thirteenth street toward Elizabeth street, and as I crossed the alley in front of the Miller Hotel—

Q. That is the alley between Elizabeth and Washington streets?—A. That alley that runs down to Mr. Cowen's house, between Washington and Elizabeth streets. I knew they were coming through that alley, because I saw them as they passed across Fourteenth street, one four first and then another four.

By Senator OVERMAN:

Q. What did you say?—A. Four soldiers passed first and then another four, through that alley from Cowen's alley into the Miller Hotel alley. One four crossed and then another four; and that is the time I started from Fourteenth street back to Thirteenth street, and there I crossed on Thirteenth street over to the Miller Hotel alley, when I heard a word, a remark, and it was a profane word, I presume, but I would like to say it just as it was.

Q. Go ahead.—A. I heard a word right by the gate, the Miller Hotel, just in that alley, "Give them hell." At that word, just about that time, I crossed the alley. Of course I knew they were coming through that alley, and naturally I had my eyes over toward that alley, and I saw two files of soldiers, one on each side of the alley—one on the Miller Hotel side and the other on the Bolack side.

By Senator WARNER:

Q. Please stop right there. You say you saw two files of soldiers there?—A. Yes, sir.

Q. And what was their location; right at the mouth of the alley?—A. No, sir; they were coming by the gate, just about 25 feet away, you know. From the gate to the corner of Thirteenth street is about 25 feet.

Q. Where were you then?—A. I was crossing the alley when I heard the words "Give them hell," and at the same time I saw one file on the Miller Hotel side and one on the Bolack side.

Q. And how far would they be from you, then, when you heard

them say, "Give them hell?"—A. How far would they be from me when I heard them say "Give them hell?"

Q. Yes.—A. They were about 25 feet, more or less, from the gate to the corner of Thirteenth street, from the gate, and crossing the alley.

Q. Could you see distinctly that they were soldiers?—A. Yes, sir; they were soldiers; I could see them.

Q. They were colored soldiers?—A. Yes, sir; they had uniforms. I saw plainly that they were soldiers. It was a clear, light night—starlight.

Q. After the words there that you heard, "Give him hell," or "Give them hell," whatever it was that was said, was there a volley then fired, or shooting?—A. After the words were said, you know, they fired a volley.

Q. Now, go on and state just where you went then.—A. I crossed and went on on Thirteenth street toward Elizabeth street, hollering to the people at the Miller Hotel to escape themselves, and to put out their lights, because the colored soldiers were shooting the people.

Q. You went down the street giving that alarm?—A. That alarm, yes, sir; because I thought that was the best judgment I could use, because I could not stand against fifteen or twenty men.

Q. To alarm them?—A. To alarm the hotel, because that was a large hotel, and there were people coming from all over the United States stopping there with their families, and there were women and children, and I thought that was the best judgment I could use, not to stop and try to arrest them, but to go on and make an alarm, so that they could escape themselves.

Q. Well, go on.—A. I proceeded on Thirteenth street, and immediately after that they came out, and one fired at the Miller Hotel on Thirteenth street.

Q. Pardon me a moment. Where did you go then, when you left up there at Thirteenth street and the alley, at the corner of the Miller House? You went down toward Elizabeth street, you say?—A. I went on Thirteenth street toward Elizabeth street; yes, sir.

Q. Then what did you next see and hear of soldiers?—A. Immediately after they fired they came out, and I saw one file on the side of the Miller Hotel and another on the King Building side.

Q. They came out into Thirteenth street?—A. From the alley into Thirteenth street.

Q. Were they in plain view of you then?—A. At that time I was between the two lights—one at the corner of Wreford's and one at Mr. Bolack's corner.

By Senator OVERMAN:

Q. There were two lights?—A. Yes, sir.

Q. A light at the corner of Washington and Fourteenth streets, and also one at Elizabeth and Thirteenth streets?—A. There is at the corner one light, and at Washington street on the other corner there is another light; yes, sir.

By Senator WARNER:

Q. What did you do then?—A. I hollered to the people two or three times, and these men kept on firing at me, and I was riding fast on horseback, and I had the reins in this way [indicating with right arm].

Q. You were watching them to see what they were doing?—A. They were shooting at me, and it is natural I was looking back. I was looking this way and standing in the stirrups [witness indicating].

Q. That is, you had the reins in your right hand?—A. Yes, sir; and my face turned back, standing in the stirrups looking back this way, and I could see the flash of the guns; I could see them shooting; and when I arrived at the corner of Miller's Hotel—that is, on Elizabeth street—they shot my arm and shot the horse.

Q. When you got to the corner of Elizabeth street—A. I received this wound [witness indicating his right arm].

Q. (Continuing.) On Thirteenth street?—A. On Thirteenth and Elizabeth streets?

Q. Yes.—A. Just as I turned the corner of Elizabeth street.

Q. Those men who came out of the alley you say were colored soldiers? How many were there that came out?—A. There were about fifteen or twenty, I believe; more or less.

Q. Could you see whether or not they were armed—carrying guns? They had guns, had they?—A. Yes, sir; they had guns. I could see their guns.

Q. And you saw their uniforms and knew they were soldiers?—A. Yes, sir; I saw their uniforms and knew they were soldiers.

Q. And you say they shot you?—A. They shot me and shot the horse. That was on the corner of Elizabeth street and Thirteenth street.

Q. Did the horse fall there?—A. He stumbled. After they shot me and shot the horse he stumbled, and at the corner I turned my back and I got hold with this hand of the reins and shot him across the street, and he fell right across over there [indicating].

Q. That is, you got hold of the reins with your left hand?—A. Yes, sir; and put him right across the street, and he fell dead, with his neck across the sidewalk. Then I had this leg under him, and while I was down there was another volley fired while I was struggling to get from under the horse, and when I got up I got up on the sidewalk like this [indicating]—this way. I got hold of my wrist—the broken wrist—in this way [indicating].

Q. That is, your broken arm?—A. Yes, sir; and I stepped off the horse this way [indicating], which was from the lamp, in the shadow, which covered me, and I saw them tiptoe, going back on Thirteenth street toward the alley.

Q. Back where?—A. Back on Thirteenth street toward the alley at the end of the King Building, and when I saw they had all arrived there at the alley I knew then that I was all right, that they did not see me, and then I got up and took the sidewalk down Elizabeth street toward the drug store uptown, which is a block or a block and a quarter.

Q. Did you meet anybody?—A. I met at the next corner—the corner of Twelfth street—two Mexicans, one of whom is a carpenter, and they knew me, and they asked me if I was riddled all with bullets, and I told them no, but I got my arm broken, and I said, "If you have a handkerchief, I wish you would tie it," because I was getting weak.

Q. You were bleeding?—A. Yes, sir. Then they tried it, and I said, "Will you help me under the arms and get me to the drug store,

because I am getting weak? And they helped me, and I asked the druggist to bandage it; and about that time, or maybe five or ten minutes, Maj. Joe Combe and Dr. Fred Combe and other people came down there and they took me home in a cart. I could not walk any more. I like to have bled to death. But as far as looking at them all the time goes, I saw them very plain, and they were colored soldiers, because there is no colored population there but six or seven colored men in Brownsville, and I know them all very well.

Q. You had no doubt that they were colored soldiers?—A. No doubt in the world, sir.

Q. And your position of danger was one to make you keep very close watch on them, was it not?—A. Yes, sir. I knew from the start, sir, the danger, but I thought that I would just rather be killed than have those 30 or 40 people, those people and their families, killed at the hotel, because downstairs in the Miller Hotel it is all open in summer.

Q. And your object was to give the alarm?—A. Yes, sir; so that they could escape.

Q. Had you been warned by any of the policemen not to go out there, because you would be shot?—A. No, sir; my mind was right there, to go and give the alarm, to get there before these men did, and to give the alarm to the Miller Hotel people so that they could escape.

Q. To get where before they did?—A. To the Miller Hotel.

Q. To give this alarm?—A. To give the alarm; yes, sir.

Q. Doctor Thorn's house is just next to the hotel, is it not?—A. Yes, sir; it is back of the Miller Hotel.

Q. I assume that you did not see any more of the shooting that night and do not know anything more?—A. When I passed Crixill's, going wounded—

Q. Crixill's barroom?—A. Yes, sir; Crixill's barroom; there is a lamp, you know, in the middle of the street, and as I got there I heard some shots fired back of the Ruby Saloon, you know, where that French boy was killed.

Q. The Ruby Saloon? Is that the same as Tillman's saloon?—A. Tillman's saloon; yes, sir. After that I was unconscious, and I don't recollect whether there was any more shooting or not.

Q. Where were you on the night of the 13th, before you heard the shooting, Lieutenant?—A. I was at Masonic lodge, sir. I am tyler at the lodge, and at 11 o'clock we closed up and I went home and undressed, and dressed myself, and then returned back to duty at the market.

Q. You did what?—A. I returned to the market.

Q. Why did you return to the market?—A. From home, you know.

Q. Why did you go down there, I say?—A. I started from the Masonic lodge, because I am tyler of the lodge.

Q. Yes.—A. And then I went at 11 o'clock from the lodge, home, undressed, and put on my police uniform, and from there I rode back to the market, and remained there until I heard the shooting.

Q. As to your uniform, this was in the summer season, and what was your uniform?—A. In summer we wear, generally, you know, a sort of yellow khaki uniform. Some they use the khaki and some do not. Some they use a blue uniform.

Q. But this was in August.—A. Yes, sir; in the summer.

Q. And the character of the hats that they wear?—A. Yes, sir.

Q. What is it—a wide brim?—A. The hat, you know, is a larger brim than the soldiers' hats, and it is almost the same color.

Q. Yes. Did you wear badges?—A. We wear badges exposed, outside, on the left breast.

Q. How many policemen are there in Brownsville?—A. Eight.

Q. Were there eight at that time?—A. Yes, sir.

Q. Were there eight on August 13?—A. Yes, sir.

Q. Eight policemen?—A. At night.

Q. On duty at night?—A. Yes, sir; on duty at night.

Q. How many were there in the daytime?—A. In the daytime there are two.

Q. Do you happen to remember now—I do not know whether you do or not—where those policemen were stationed on the night of August 13?—A. I could not tell you, not all, exactly, because it is such a long time that I can not remember; but I could tell you most of them, where they were.

Q. Yes.—A. Fifth, Sixth, and Seventh streets, there was this Lerma. Next, was Galvan, Eighth, Ninth, and Tenth streets; Eleventh and Twelfth streets it was Padron; Thirteenth and Fourteenth streets was Rivas, and on Fifteenth street was Calderon. Then the other policeman, who makes the first round, Lerma, he is supposed to go all around through the beat in the early part of the night, and then at 1 o'clock I start out, and stay on until daytime.

Q. What time did you go to the lodge on the night of the 13th?—A. I generally go about 7 o'clock.

Q. About 7, did you say?—A. Yes, sir.

Q. And you returned, leaving there, going home, at 11 o'clock?—A. At 11.

Q. Where was the Masonic lodge?—A. The Masonic lodge is in the building that belongs to the drug store of Dr. Fred. Combe, upstairs.

Q. But where is the location of it, I mean; where is it located on the streets?—A. It is on Elizabeth street, between Tenth and Eleventh.

Q. Elizabeth street, between Tenth and Eleventh streets?—A. Yes, sir.

Q. And where was your home, where you live?—A. I live on Elizabeth street and Fifth street, uptown.

Q. At Elizabeth and Fifth streets?—A. Yes, sir.

Q. You call that uptown, going away from the garrison?—A. Yes, sir.

Q. Were you at the market place that night?—A. In the early part of the night I put the police out, and just as soon as I put the men on duty I went to the lodge.

Q. Before this shooting was there any unusual excitement in Brownsville at all, anything unusual?—A. Not that I know of.

Q. Did you ever hear of any that night?—A. No, sir; it was a very quiet night.

Q. I will get you to state whether or not, as lieutenant of the police, you had any prejudice against colored soldiers.—A. No, sir. When I was a Mexican boy I was a messenger under the United States Government as a civilian for five years, and from 1865 most

of the time there were colored troops, and we never had any trouble at all.

Q. You were five years as a messenger boy in the United States service?—A. Yes, sir.

Q. Where were you stationed then?—A. At Fort Brown—Brownsville.

Q. You have lived there all your life, have you?—A. Yes, sir; I was born and raised there. My father was a colonel under Gen. Winfield Scott, and his troops, after the war, were mustered out at Baton Rouge, and he thought that he would settle there.

Q. Your father was a colonel under General Scott?—A. Under Gen. Winfield Scott. If the Senator would wish to see them, I have got papers to show.

Q. I do not care about that. You were quite well acquainted in Brownsville, then, and with the people there?—A. Yes, sir. I was born and raised there, and know most everybody, and am well liked by everybody—women, children, and men. Yes; I have no enemies at all there.

Q. That is very good, lieutenant; but what I am asking is, did you ever hear of any threats being made against the colored soldiers if they should come there?—A. No, sir.

Q. By any of your police or anyone?—A. No, sir.

Q. Did you have any feeling against their coming there?—A. None at all, sir.

Q. Is it a fact that you or your policemen, as far as you knew, arrested men, because they were soldiers, for less offenses than you would arrest citizens for?—A. No, sir; we treated everybody just alike.

Q. You tried to, did you?—A. Sir?

Q. You tried to treat them all alike, did you?—A. We tried to, sir.

Q. You spoke of the wound in your arm. It shows for itself, but I will ask you. It had to be amputated, did it?—A. Yes, sir; next day my arm was amputated by Dr. Joe Combe.

Q. Below the elbow?—A. Just about an inch below the elbow.

Q. After this were you laid up in the house long—at your house?—A. Yes, sir; I remained at home for quite a long time; it would be over a month.

Q. At the time you were at home, or since that, have you ever had any doubt but what it was the colored soldiers that did the shooting up of Brownsville?—A. Oh. I am satisfied, sir, that it was the colored soldiers. I am satisfied of that—positive.

Senator WARNER. I think that is all.

By Senator FORAKER:

Q. You knew that they were colored soldiers that night?—A. I knew they were colored soldiers, but of course I could not identify them.

Q. You were told they were the colored soldiers by the first policeman you met before you started out?—A. Yes, sir; he told me.

Q. He told you that they were the colored soldiers?—A. The ones that were shooting at the Cowen house.

Q. What is that?—A. He told me when I got to the corner that they had just got through shooting at the Cowen house.

Q. At the Cowen house?—A. Yes, sir.

Q. That was Genaro Padron?—A. Yes, sir.

Q. And you found him at the corner of Washington and Fourteenth streets?—A. Yes, sir.

Q. Is that where you got off and tightened your saddle girth?—A. Yes, sir.

Q. You had gone from the market house straight up to that corner?—A. As far as Washington and Fourteenth streets.

Q. You did not start away from the market house until after the firing commenced?—A. Sir?

Q. You did not leave the market house until after the firing commenced?—A. Yes. I did not leave there until I heard the first shots, you know.

Q. How many shots did you hear before you left?—A. They were scattered shots at first and then a volley like.

Q. What kind of shots were those first shots?—A. The report of the gun; it sounded like a sharp report, you know. It was a very strange report, because our guns that we use, the citizens there, are Winchesters, you know, with black powder; and that powder gives a very strong detonation, you know.

Q. Did it sound like a Winchester or some other kind of a gun?—A. It sounded like a very strange arm.

Q. Very strange?—A. Yes, sir.

Q. Did it not sound like pistol shots?—A. No, sir; it sounded a very sharp sound, just like when you throw firecrackers in a barrel and they explode.

Q. That was the first firing you heard?—A. Yes, sir.

Q. Were you on your horse when the firing commenced?—A. No, sir; I was sitting on the steps.

Q. You were what?—A. Sitting on the market house steps, waiting.

Q. How many shots did you hear first?—A. I can not recollect how many; they were scattered shots.

Q. Were they in rapid succession, one right after another, like that [indicating]?—A. Yes, sir.

Q. Just like firecrackers going off in a barrel?—A. Yes, sir.

Q. About how many did you hear before you got on your horse?—A. That I could not tell you.

Q. Now, can you tell us about where you located that firing at the time—where you thought it was?—A. I was at the market.

Q. You were at the market; but where did you think the firing was?—A. The firing?

Q. Yes.—A. It sounded like toward the garrison.

Q. Well, down toward Washington street?—A. Down toward Washington street.

Q. Then you thought it was down toward Washington street, toward the barracks, near the barracks?—A. Well, that is the way it sounded.

Q. That is the way that it seemed to you?—A. Yes, sir.

Q. As though it were down Washington street, at the end of the barracks?—A. Yes, sir.

Q. You got on your horse and rode toward the firing?—A. Yes, sir; and in going down I trotted, on horseback, fast.

Q. You trotted fast, going down?—A. Yes, sir.

Q. How many squares did you go?—A. Yes, sir.

Q. How many squares?—A. Three squares.

Q. You went down three squares, and the first man you saw was Genaro Padron?—A. Genaro Padron; yes, sir.

Q. And you met him right at the corner of Washington and Fourteenth streets?—A. Yes, sir.

Q. Right in the middle of the street?—A. Yes, sir.

Q. What was he doing there?—A. He came up there, and he was looking at the soldiers while they were shooting at Cowen's house.

Q. That is to say, he was looking down Fourteenth street, was he?—A. Fourteenth street and near the alley, near the Cowen house.

Q. Was he near the alley?—A. (Continuing.) But I did not see him there, you know. He told me that he came from the alley.

Q. Did he say that he was down to the alley?—A. Yes, sir; and he went away from there and got back to the corner of Fourteenth street, and I found him at the corner of Washington and Fourteenth streets, and I asked him, "What does all this shooting mean?" And he says, "The soldiers are shooting up Cowen's."

Q. And they had just finished shooting at the Cowen house?—A. Yes, sir.

Q. He seemed to know exactly what they had been doing?—A. Yes, sir.

Q. Did you see any soldiers down there?—A. While I turned to girth my horse I saw first four men—

Q. I will come closer to you, so that I can hear you better. You say you got to the corner of Fourteenth and Washington streets, and you met Padron?—A. Yes, sir.

Q. And had he come up Fourteenth street?—A. I don't know which way he went.

Q. He was standing there?—A. Yes, sir; he was standing there.

Q. At the corner of Fourteenth and Washington streets?—A. Yes, sir; at the corner of Fourteenth and Washington streets.

Q. Did he tell you that he had been down there near the firing?—A. He told me that he had been down near the alley where the firing was.

Q. He had been down near the alley where they had just finished shooting up the Cowen house?—A. Yes, sir.

Q. And he said that there were soldiers doing it?—A. Yes, sir.

Q. And from that time on you knew that it was the soldiers did it?—A. From what he told me, yes.

Q. You had not seen a soldier yet?—A. I saw them crossing in the alley.

Q. That is this alley here [indicating on map]?—A. Just crossing from the Cowen alley into the Miller Hotel alley.

Senator FRAZIER. Crossing Fourteenth street?

By Senator FORAKER:

Q. Crossing Fourteenth street?—A. Yes, sir.

Q. And how many of them were there?—A. I saw, first, four.

Q. Crossing Fourteenth street?—A. Yes, sir; and immediately after the four there was another four passed.

Q. Another four?—A. Yes, sir.

Q. So that you saw eight?—A. I turned right back, then; I returned to Thirteenth street.

Q. You turned your horse and went back to Thirteenth street and down toward Elizabeth street, to the Miller Hotel?—A. Yes, sir.

Q. And as you got to the alley where it crosses Thirteenth street, the men were just coming to Thirteenth street who were doing the firing—soldiers, as you call them?—A. Yes, sir; but they had not fired before I got there. That was afterwards, just as I crossed the alley.

Q. I know, but had they done any firing until during the time you were coming on Washington street from Thirteenth to Fourteenth and then around through Thirteenth, through here?—A. No, sir; they were going through the alley. I could not hear what they said, but I could hear them murmuring in a low tone.

Q. In a very low tone?—A. Yes, sir. I could hear them, and at the same time I was thinking, "What shall I do?" Then I thought, "The best thing is to run and get over there before they get there, and give the alarm to those people in the hotel."

Q. They were talking very low, but you could hear them?—A. Yes, sir.

Q. And you were up here on Washington street?—A. Yes, sir.

Q. And then you were riding around?—A. Yes, sir.

Q. And they were down here in the alley?—A. Yes, sir.

Q. Are there any houses down there fronting on the alley?—A. Any houses?

Q. Yes; any houses fronting on the alley.—A. There is a very low building.

Q. A low building?—A. Yes, sir.

Q. Are there any houses fronting on Washington street?—A. Yes, sir.

Q. In that square?—A. Yes, sir.

Q. There are houses all along there, are there not?—A. Yes, sir.

Q. And still you heard them?—A. Yes, sir; I heard them.

Q. Were you riding in a fast trot then?—A. No, sir; going not very fast, because I was keeping my eyes open and listening to hear.

Q. You were listening?—A. Yes, sir.

Q. There was no firing? You did not hear any firing while riding around?—A. No, sir; not while they were coming through.

Q. While you were riding around?

Senator WARNER. He said not while they were coming through.

The WITNESS. No, sir.

Senator WARNER. That is all. I did not intend to interrupt.

Senator FORAKER. I understand.

By Senator FORAKER:

Q. You did not hear any talking at all from the time you left Padron until you rode around to Thirteenth street and the alley?—A. Yes, sir.

Q. Did you? You heard no firing then?—A. During that transit I did not. They did not shoot. I could hear them murmuring, and stumbling with their feet over bricks or something, because it is rough in that alley.

Q. You could hear them walking and talking and stumbling over bricks in the alley?—A. Not talking; just murmuring.

Q. Could you hear what they were saying?—A. Oh, no; I could not.

Q. Can you tell how far it is from this alley up to Washington street, on Fourteenth street?—A. From the corner of that alley up by Cowen's?

Q. Yes.—A. To the corner of the Miller Hotel?

Senator FRAZIER. No; from the alley to Washington street.

By Senator FORAKER:

Q. From the alley to Washington street, crossways, that way [indicating]?—A. That is what I say, from the corner, by Cowen's, up the alley to—

The CHAIRMAN. He wants to know how many feet it would be, if you know, measuring with a tape line from the alley to the street.

Senator FRAZIER. To Washington street.

The WITNESS. It is 120 feet long from the corner of the alley back to the corner of Washington street.

By Senator FORAKER:

Q. So that you were 120 feet away from the alley on which they were proceeding toward the Miller Hotel, and you rode clear around?—A. Yes, sir.

Q. Now, about how near were they in the alley when you got around to the corner of the alley and Thirteenth street?—A. From the corner of Thirteenth street and the alley it is only 120 feet length.

Q. I say, how near were these men coming up from the Cowen house toward the Miller Hotel—how near were they to Thirteenth street—when you got to Thirteenth street and the alley?—A. They were in the dark there. I could not tell you exactly. They were in the alley, you know.

Q. Yes.—A. Maybe 30 or 40 feet.

Q. Thirty or 40 feet down here in the alley?—A. Maybe; I could not tell you.

Q. Are there any lights in that alley?—A. In the alley?

Q. Any lamps?—A. No, sir; not in the alley.

Q. It is a dark alley?—A. Not very dark, because the buildings on this side, opposite the Miller Hotel, are not second-story buildings; they are just one floor, the common houses, you know. During the daytime you could see through from Washington street, and see a man who was walking on the alley, because there is a 5-foot picket fence along there.

By the CHAIRMAN:

Q. The houses do not join each other, do they?—A. No, sir; they do not join each other.

By Senator FORAKER:

Q. This star, indicating a lamp, at Washington and Thirteenth streets, is right?—A. Yes, sir.

Q. Here is another lamp indicated at the corner of Elizabeth and Thirteenth streets [indicating on map].—A. Yes, sir.

Q. There is no street lamp between those two?—A. Only those two.

Q. Only those two?—A. One on Washington and Thirteenth streets, and one on Elizabeth and Thirteenth streets.

Q. They are more than 300 feet apart, are they not; that is, from Washington street to Elizabeth street?—A. Oh, no, sir; about 240 feet.

Q. Some one has testified that it is 330 feet, according to my recollection, from the center of street to the center of street. I do not remember who testified to that. It is 300 feet, is it not?—A. No, sir; I do not think it is 300 feet; it is 240 feet. That is the measurement of the lots.

Q. Can you tell us the width of that alley?—A. I have no idea; it is a narrow alley.

Senator WARNER. That is not material; we have that.

By Senator FORAKER:

Q. We have the exact distance in the record, and it is not material, as Senator Warner says—a difference of a few feet. From Washington street to Elizabeth street there is no lamp at all, and there is no lamp in this alley, from the garrison wall up to Thirteenth street; there is no lamp there?—A. Through the alley there is no lamp.

Q. That is simply a dark alley of a dark night?—A. It is not dark, because the houses, as I said, on this side, are just common brick houses, you know, and—

Q. When I say a dark alley I mean simply an unlighted alley. There are no lamps?—A. No, sir; there are no lamps there.

Q. There are no lamps in that alley at all, as I understand it?—A. No, sir.

Q. And there are no lamps from Washington street to Elizabeth street on Fourteenth street?—A. There is a lamp there, one on Elizabeth street; and there is another on Washington street.

Q. That is at Washington and Fourteenth streets, and at Elizabeth and Fourteenth streets?—A. Yes, sir.

Q. Now, when you got around to Thirteenth street and the alley, you were coming from Washington street toward the Miller Hotel, were you?—A. I can not hear you very well.

Q. Well, when you passed around into Thirteenth street from Washington street, you went toward the Miller Hotel?—A. Yes, sir.

Q. And you came to the point where you crossed the alley?—A. Yes, sir.

Q. That is the point I am now pointing to, just in the rear of the Miller Hotel [indicating on map].—A. Yes, sir.

Q. Now, when you got there, you heard some one say, "Give him hell," or something like that?—A. Yes, sir.

Q. You were already looking out for these men, were you not?—A. Yes, sir.

Q. You knew they were there?—A. Yes, sir.

Q. Did you look and see them?—A. No, sir; my attention was there because they were coming, you know; they were coming from the alley.

Q. I know; I say you saw them?—A. Yes, sir.

Q. And they were 30 or 40 feet away, you tell us, when you got there?—A. When I got there, about 25 feet. I never said it was 30 or 40 feet.

Q. I thought you said, a few moments ago, 30 to 40 feet?—A. No, sir; it was 25 feet.

Q. Very well. Now, they were 25 feet away from Thirteenth street when you crossed there. Were you in the middle of the street?—A. I was inclined to the alley.

Q. And the men, then, were in an approximate way, about—A. I know they were about 25 feet, because there is a gate there, and after

I got well, and everything, I went and saw that from the gate to the corner of Thirteenth street it is about 25 feet.

Q. That is, 25 feet from the gate that enters into the rear of the Miller Hotel to Thirteenth street?—A. Yes, sir; and I was riding more over from the middle of the street, and there was one part—one file—by the gate and another file opposite.

Q. When you say "a file," how many men do you want us to understand?—A. I think there were about fifteen or twenty—about eight or ten on each side.

Q. You had seen eight men when they crossed the alley up at Fourteenth street?—A. Yes, sir.

Q. And only eight men; and they crossed in two separate squads of four each?—A. Yes, sir.

Q. When they got down to the Miller Hotel there were fifteen or twenty of them?—A. They could have crossed after I left there.

Q. I am not arguing about it. I only want what you saw.—A. I saw those two fours cross.

Q. They were divided into those two squads?—A. They passed one right after the other.

Q. You say one was on the Miller Hotel side and the other on the opposite side of the alley. Were they going in single file?—A. Just one right behind the other.

Q. Then there would be seven or eight men on each side of the alley in single file?—A. Almost.

Q. Yes. From seven to ten on each side, if there were from fifteen to twenty of the men?—A. From eight to ten men, at least.

Q. On each side?—A. Yes, sir.

Q. And you saw they were coming that way?—A. Yes, sir.

Q. Were you going at a trot when you crossed the alley?—A. Yes, sir.

Q. You were going at a trot then?—A. Yes, sir.

Q. Is there a house here [indicating on map]? What is this corner?

Senator TALIAFERRO. That would be right opposite the Miller Hotel, on the corner.

By Senator FORAKER:

Q. Are there any houses opposite to the Miller Hotel?

The CHAIRMAN. Just across the alley, he means, on Thirteenth street.

The WITNESS. On both sides.

By Senator FORAKER:

Q. So that you could not see these men in the alley until you got right opposite the mouth of the alley?—A. No, sir.

Q. Now, that alley is about 35 feet wide?—A. I have no idea how wide it is. I do not think it is 35 feet wide.

Q. The Miller Hotel is a brick building that comes square out to the corner?—A. Yes, sir.

Q. So that when you got behind the Miller Hotel you could not look into the alley?—A. Oh, I could very well, because, as I said, opposite on this side there are very low houses and on the opposite side there is a lamp.

Q. Could you see over the houses?—A. No, sir; I could not until I got to the alley.

Q. They are not so low as that? What I want to get at is to be certain that there are houses at that place, opposite the Miller Hotel—across the alley from the Miller Hotel.—A. Yes, sir.

Q. And there is a house there, and it is a brick house three stories high, is it [indicating on map]?—A. The Miller Hotel?

Q. Yes.—A. Yes.

Q. So that you were coming from Washington street toward Elizabeth street?—A. Yes, sir.

Q. And you looked down the alley and saw these men 25 feet away from you?—A. At least that.

Q. At least that?—A. Yes, sir.

Q. And you heard somebody say, "Give them hell;" and that did not make you stop, did it?—A. What is that?

Q. When you heard that voice, that did not make you stop?—A. Oh, no, sir; I knew they were coming. I wanted to cover myself and my horse with the Miller Hotel wall.

Q. You hollered out to them to halt, did you not?—A. Yes, sir; as I passed. After the words "Give them hell" and the firing I kept on and hollered "Halt," and right away I commenced to holler to the people to escape themselves.

Q. You were hollering as you went by in front of the hotel?—A. Yes, sir.

Q. And you got down as far as Elizabeth street before you were shot?—A. Yes, sir.

Q. About the time you came into Elizabeth street one of the bullets hit you in the arm?—A. No, sir; right on the corner of Elizabeth street, just in the moment I turned into Elizabeth street. I didn't turn. I intended to turn, but just as I got to the corner of Elizabeth street I received that shot, and my horse was shot. I knew the horse was shot because the horse stumbled, and I threw the horse over that way [indicating].

Q. Yes; just as you came to the corner of Elizabeth and Thirteenth streets?—A. Yes, sir.

Q. Now, which corner?—A. Opposite. I was on the King Building side, you know, opposite the Miller Hotel.

Q. When you were hit?—A. Well, I was hit on the corner of Elizabeth street.

Q. When did you cross over to that side, to the other side?—A. Cross the street?

Q. Yes.—A. Over Elizabeth street?

Q. Yes.—A. I was wounded and the horse was stumbling, and—

Q. You do not understand me. You told us when you crossed the alley coming down from Thirteenth street you were on the Miller Hotel side of the street?—A. No, sir; I can not understand you, sir.

Q. Well, I will try to make it plain.—A. When I started on Thirteenth street from Washington street, I started down to go across the alley to the Miller Hotel, and when the firing was done I was more inclined toward the Miller Hotel, the near side.

Q. That is what I said. You came down from Washington street, and you crossed over here on the Miller Hotel side very close to the mouth of the alley?—A. Yes, sir.

Q. Now, you said later, when your horse was shot under you—A. That was afterwards. That was on the corner of Elizabeth street.

Q. Well, I say it was on the opposite side of Thirteenth street.—

A. I was on the King Building side.

Q. Where is the King Building?—A. Opposite the Miller Hotel.

Q. So that you had gotten over to the opposite side of the street?—A. I had changed my direction.

Q. As a matter of fact, had you not been on that side of the street all the time?—A. No, sir.

Q. You had not?—A. No, sir.

Q. You crossed, then, after you crossed the alley?—A. After I crossed the alley; yes, sir. I was near the Miller Hotel when I crossed the alley; I was near by so that I could be heard through the windows, so as to alarm the people.

Senator PETTUS. Will you please allow the witness to put the pointer on the place that he was shot?

Senator OVERMAN. Let him go on. He said he was on the Miller Hotel side, and then crossed over to the opposite side of Thirteenth street. This is very interesting.

By Senator FORAKER:

Q. Senator Pettus wants you to point out where you were when you were shot.

Senator FRAZIER. This is Washington street running that way, and here is Elizabeth street, and there is Thirteenth street, and there is the alley [indicating on map].

A. Here is the alley. I was going down this way. Here is the Miller Hotel; from there I turned this way [indicating].

By Senator FRAZIER:

Q. Now, Senator Pettus wants to know where you were when you were shot.—A. Right at the corner, right there [indicating].

Q. The corner of Elizabeth and Thirteenth streets?—A. Yes, sir.

By Senator FORAKER:

Q. Where were these men standing when they shot you?—A. They were already on Thirteenth street, one on each side of the buildings.

Q. While, therefore, you were riding from the alley down to this point where your horse was shot, these men came up out of the alley?—A. Yes, sir.

Q. And they fired at you from Thirteenth street and the alley?—A. Yes, sir.

Q. Did they come down from Elizabeth street at all?—A. On Elizabeth street; no, sir; Thirteenth street.

Q. They were not closer to you than Thirteenth street and the alley? I mean they were not closer to where you were wounded than Thirteenth street and the alley?—A. They were 40 or 50 feet away from me.

Q. When you were wounded?—A. Yes, sir.

Q. Were they not as far from you as the center of the alley and Thirteenth street here, from the place where you were wounded?—A. I can not understand you, sir.

By Senator FRAZIER:

Q. He wants to know whether they followed you down Thirteenth street.—A. Yes, sir.

By Senator FORAKER:

Q. Did they follow you down Thirteenth street?—A. Yes, sir; about 40 feet.

Q. They came down Thirteenth street 40 feet below the alley?—A. Yes, sir.

Q. This is the alley [indicating]. They came down Thirteenth street after you?—A. They came down here, one file, and one over here, about 40 feet [indicating on map].

Q. Were you trotting all the time?—A. Going fast.

Q. You were going fast then?—A. Yes, sir; not trotting.

Q. Because you knew they were after you?—A. Not only that, but I just made up my mind I would not run away, that I would just die rather than to have those people hurt—I made up my mind to just die to help those people escape.

Q. I understand you were trotting fast?—A. When I crossed the alley I did.

Q. What were you doing when you were wounded—still trotting?—A. No, sir; the horse was going very slow, stumbling, and I was helping him with this hand [witness indicating his left hand] across the street to where he fell.

Q. Were you still trotting after your horse was shot?—A. Not after he was shot.

Q. I know, but up to the time he was shot?—A. Not trotting, but just in a fast gait.

Q. Well, you were going in a fast gait?—A. In a fast gait.

Q. You were trotting when you crossed the alley?—A. Yes, sir.

Q. You went across there at a fast trot?—A. Yes, sir; just as I passed the alley.

Q. You kept on trotting down to the point you fell?—A. No, sir.

Q. Where did you stop trotting?—A. I never stopped trotting.

Q. You never stopped trotting?—A. From the crossing of the alley I went on in a gait.

Q. In a fast gait?—A. Yes, sir.

By the CHAIRMAN:

Q. Do you mean the sort of running walk, such as saddle horses have, or do you mean the fox trot or a fast walk?—A. No, sir; I was not trotting; just this way [indicating].

By Senator FRAZIER:

Q. Was the horse walking?—A. Yes, sir.

Senator LODGE. The horse was not trotting or at a single-footing?

Senator FRAZIER. He said that the horse was walking. That is what he said.

By the CHAIRMAN:

Q. Just one question there. Your horse was killed, was it?—A. My horse was killed.

Q. Your horse was shot?—A. Yes, sir.

Q. Was he shot before or after you received the shot in your arm?—A. Just the moment I received my shot the horse was wounded, too.

Q. Was it the same shot, do you think?—A. No, sir.

Q. But about the same moment?—A. Yes, sir; about the same moment.

The CHAIRMAN. I beg pardon; that is all I wanted to ask.

By Senator FORAKER:

Q. It was a volley that was fired that caught your horse and you, too?—A. They were firing very rapidly.

Q. Yes.—A. Very rapidly.

Q. You say there were two files of men on Thirteenth street following you?—A. Yes, sir.

Q. Which one of those files fired at you?—A. I could not tell, because from both sides you could see the guns flashing.

Q. It was rapid firing?—A. Very rapid shooting.

Q. Where was the other policeman?—A. I don't know; I could not tell you.

Q. What became of Padron?—A. I don't know; I suppose he left me; I didn't see him any more. When I got to the lamp at Thirteenth street I didn't see him any more. I went about my business, to save the people.

Q. Did he follow you out on Thirteenth street?—A. I don't know; I never saw him.

Q. You never saw him?—A. No, sir; my back was to that way, and my whole attention was on the Miller Hotel, because I knew those people were in danger.

Q. Did you give him any orders at all?—A. No, sir.

Q. You were his commander?—A. Yes, sir.

Q. You did not tell him what you wanted to do, or what you wanted him to do?—A. No, sir.

Q. Although you knew there were a lot of soldiers' out shooting up the town and trying to kill people, you did not give him any orders?—A. That is what he said; what they did at the Cowen house.

Q. You knew that they had shot into the Cowen house, and yet you rode away by yourself and did not give him any orders?—A. Yes, sir.

Q. Did you not see another of your policemen?—A. Well, he might have been there; but I never saw him, because when I got to Thirteenth street and turned to go across that alley my back was to them, whoever it was. It might have been two or it might have been three, I don't know; but my attention was naturally the other way.

Q. Let me ask you about the policemen. You had eight on duty that night?—A. Yes, sir.

Q. The men you had on duty in the daytime were not on duty at night, I suppose?—A. There are two men on duty in the daytime.

Q. But they are not also on duty at night?—A. No, sir.

Q. They are off duty at night?—A. Yes, sir.

Q. But you had eight others. Your whole force consisted of ten men?—A. Yes, sir.

Q. Besides yourself?—A. Yes, sir.

Q. And the chief, Mr. Connor?—A. Yes, sir; but Mr. Connor is the chief, and he does not do any duty at night; that is all left to me.

Q. Where was he that night?—A. I don't know, because after I go on duty and turn the police off he goes home.

Q. Your police force consisted of the chief and yourself and ten men?—A. Yes, sir.

Q. And that night you yourself and eight men were on duty?—A. Yes, sir.

Q. Making nine of you altogether?—A. Yes, sir.

Q. You were all armed, were you not?—A. We carry a pistol.

Q. What kind of pistol do you carry?—A. A .45-caliber pistol.

Q. Is it a Winchester or a Colt or what?—A. A Colt.

Q. A Colt, is it?—A. Yes, sir; .45 caliber.

Q. That is a pretty deadly weapon, is it not?—A. Any pistol is a pretty deadly weapon.

Q. You can shoot accurately with it at 100 feet or more?—A. I don't know, Senator, I could not tell you, because I hardly ever used my pistol to shoot at a mark. I carried it because I was on the force, you know.

Q. Were these old policemen, these eight men, had they been long in the service?—A. No, sir; some had been in the service five or six years.

Q. Five or six years?—A. Three or four.

Q. How many of them could speak the English language?—A. I can not tell you. There are some that speak it and some that understand it but speak very little English.

Q. I have heard it stated in the testimony that two of them ran into Mrs. Leahy's after the firing commenced and asked her to hide them away?—A. Yes; I don't know. I don't know anything about that, because after I was shot I didn't know for a month, you know, anything about it.

Q. Has this ever been investigated?—A. I don't know, because I haven't been around the station house.

Q. You would know if it had been investigated?—A. I don't know; I never inquired; because really I am weak and deaf and childish, like, since I was shot. I begin to articulate a little now.

By Senator PETTUS:

Q. How many bullets struck you?—A. Only one shot that I received.

(At 1.20 o'clock p. m. the committee took a recess until 2.15 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee, at 2.30 p. m., resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, Foster, Overman, and Frazier.

TESTIMONY OF M. YGNACIO DOMINGUEZ—Continued.

M. YGNACIO DOMINGUEZ, a witness previously sworn, resumed the stand.

By Senator FORAKER:

Q. I believe, when we took the recess, I was asking you about your policemen?—A. Yes, sir.

Q. The length of time they had been on the force, and I think you said the most of them had been there as long as five years?—A. Some of them had been and some less.

Q. Where were all those policemen on this evening, if you can tell us?—A. That night?

Q. Yes.—A. They were on their beats. Each one had a regular beat.

Q. When you have a shooting-up scrape like that, is it not the duty of your policemen to go to the scene of trouble and danger?—A. No, sir; unless they hear a whistle or rapping on a lamp-post.

Q. Would it not be the duty of a policeman on whose beat such a shooting affray as this would occur to sound his whistle and call for help?—A. Because—

Q. I say would it not be his duty to do that? Please answer that and then you can add anything you wish.—A. Not exactly, no; because shooting had sometimes been done before by the soldiers of the Twenty-sixth on Sixteenth street. They claimed that street belonged to the United States Government.

Q. That is Fifteenth street?—A. Sixteenth street.

Q. We call it Fifteenth street. You mean the street that is right in front of the wall?—A. That is Sixteenth street.

Q. It is marked Fifteenth street there.—A. A part of it is Fifteenth street, and then it comes to a triangle that way, about the middle of the town.

Q. This is the street you mean?—A. Yes, sir.

Q. And you say men of the Twenty-sixth were firing there frequently?—A. Yes, sir; frequently they used to fire their arms.

Q. The soldiers of the Twenty-sixth—those were the white soldiers?—A. Yes, sir; and of course we had nothing to do with that. They could shoot as long as they wanted to.

Q. What were they shooting at?—A. They used to take their guns out and shoot for a pastime.

Q. Would they shoot into the town?—A. No, sir; I did not see them shoot into the houses.

Q. Suppose they would go and shoot into the houses. Would it not be the duty of the policemen to stop them?—A. Not on Sixteenth street, because I was shot there and afterwards it was found that it was Government land, and we had nothing to do with that.

Q. That is, you and a soldier got into a shooting scrape, and he shot you through the arm?—A. Through the arm right here; yes, sir.

Q. He belonged to the Twenty-sixth?—A. Yes, sir.

Q. That was a white soldier?—A. Yes, sir.

Q. A man by the name of Baker?—A. Yes, sir.

By Senator WARNER:

Q. How many years ago was that?

By Senator FORAKER:

Q. About two years ago, was it not?—A. About two or three years ago.

Q. Did the men of the Twenty-sixth go out and shoot frequently at night?—A. Yes, sir.

Q. What would they be shooting at?—A. Just for a pastime.

Q. Did they shoot at people?—A. No; they never shot at people to my knowledge. I used to hear a good deal of shooting up that way, but we could not say anything at all.

Q. On account of the shooting by the Twenty-sixth, you say, it would not be the duty of a policeman to summon other policemen, to sound the alarm, when there would be a shooting scrape like this

was?—A. The orders were that unless they should hear the alarm whistle—that if they heard that, then they were to go.

Q. No matter how much firing they might hear, other policemen would not go?—A. On that street, no.

Q. When the firing had moved from the front of the garrison down to Fourteenth and then down to Thirteenth, would it not be the duty of the policemen to take notice of that?—A. Padron went there as far as Fourteenth street, and then from there, from Sixteenth street, you know, it is garrison ground.

Q. But he did not go on down to the garrison, he stopped at Fourteenth?—A. Yes, sir.

Q. Do you know whether any of the other policemen did in fact come up to the scene of danger and try to arrest those people?—A. I don't know, because after I was shot I did not know anything about it at all.

Q. And you did not see any of your police force except only Padron before you were shot?—A. No, sir.

Q. You did not see anyone except Padron on Washington street?—A. On Washington and Fourteenth streets.

Q. And you did not see anybody on Thirteenth street?—A. No, sir.

Q. Nor on Elizabeth street—anybody who belonged to the police force?—A. Not at that time.

Q. You did not see Remerez?—A. No, sir; I did not see him. Perhaps he was there. He might have come when I turned my back to go toward the alley.

Q. Is it not the duty of your policemen, when people get abroad down in the town and get to shooting or misbehaving, to follow them up and arrest them?—A. When there is a shooting that way, but that hardly ever happens, because it is a very quiet town.

Q. Yes; I know it is; a very quiet town.—A. Yes, sir; it is.

Q. Yes; I understand.—A. They generally blow the whistle to call for the man on the next beat.

Q. And if they do that, it is the duty of the others to go to the rescue?—A. Yes, sir.

Q. But now, this was an unusual firing, was it not?—A. Unusual how—how do you mean?

Q. Nothing like this ever happened before in your town, did it?—A. No, sir; only that the Twenty-sixth Infantry used to shoot on Sixteenth street.

Q. I know; but nobody ever came down into the part of the town as far as the Miller Hotel?—A. Sometimes they used to come into town, somebody that was intoxicated, and fire his pistol, but he was arrested and fined.

Q. Was it not extraordinary for as many as fifty or a hundred shots to be fired there in your town at night?—A. Well, that amount of shots were fired.

Q. I know; but that was unusual, was it not?—A. Yes, sir.

Q. Never happened before. Now, was it not the duty of your policemen to find out what was the matter?—A. Perhaps they were afraid to go.

Q. They might have been afraid?—A. Yes, sir.

Q. It was their duty, whether they were afraid or not, to try to find out what was the trouble, and to stop it if it was trouble that was

being made by violators of the law.—A. I suppose they were powerless, and did not think it was policy for them to go.

Q. There would not have been any danger if they had simply followed them up to see what became of them, would there?—A. I do not see any policy in that, because even without following them they were firing at us. Wherever they would see an officer, they would fire.

Q. You could see them 100 feet away, couldn't you?—A. I could see an object.

Q. Fifteen or 20 men—you saw them shooting. Now, would it not have been an easy matter for your policemen, whose duty it was to guard the town, to follow up that bunch of men, as many as 15 or 20, who were out shooting up the town, to see what became of them?—A. I don't know, sir, because it is every man's judgment. Perhaps they were afraid to attack them or to come near them.

Q. Padron was trying to find out what was the matter, wasn't he?—A. He just peeped and saw who they were doing the shooting, and returned right back a block.

Q. He did not try to stop them?—A. No, sir.

Q. He did not call, "Halt" to them, as you did?—A. No, sir.

Q. He did not run down and say, "What are you doing here," and try to arrest anybody?—A. No, sir; if he had he would never have come out alive.

Q. He did not blow his whistle or anything of that sort to summon any help?—A. No, sir; because you know just after the shooting I arrived there. He could hear me for three blocks.

Q. Was it not the duty of your policemen who carry those big .45-caliber Colt revolvers to shoot people who are violating the law, if it became necessary, in attempting to arrest them?—A. No, sir; it is unlawful.

Q. I say, if it became necessary for you, if you found a lot of men shooting into a house, trying to kill everybody in the house, would it not be their duty to try to stop it?—A. If they saw it, to try to stop it, but not to shoot them, because that would be unlawful, without having any warrant or anything of that kind.

Q. If you found them shooting into a house filled with women and children, and they would not stop when you ordered them to, do you think it would be unlawful to fire on them and try to drive them away?—A. If I was to see it with my own eyes, then it would be my duty.

Q. Then you would do that, and if they would not stop you would fire?—A. To defend myself; yes, sir.

Q. You use your arms, don't you, when you undertake to make an arrest and you are resisted?—A. When I see a man draw his weapon, of course.

Q. Yes; and whether he draws the weapon on you or draws it on a citizen whom it is your duty to protect—but nothing of that kind was done that night?—A. No, sir.

Q. Have you had any report from your policemen from which you can tell us—A. I have not been on duty ever since. I do not know anything at all.

Q. Who is in charge of the police force now?—A. The policemen and the city marshal himself.

Q. The city marshal, who is he?—A. George Connors.

Q. He is the chief of police?—A. Yes, sir.

Q. Who has taken your place as lieutenant of police?—A. Corporal Leall is acting.

Q. Did you hear any talk about the soldiers coming there, any objection to their coming?—A. Coming where?

Q. To Fort Brown?—A. No, sir.

Q. You never heard a word of objection to their coming?—A. No, sir.

Q. You did not attend any meetings anywhere that were held to consider whether or not there should be opposition to their coming?—A. No, sir; the only lodge that I go to is the Masonic lodge.

Q. You do not go to anything else?—A. I do not go to any other association, any theater, or nothing at all.

Q. Can you tell us whether your policemen carry any weapons, except those .45-caliber revolvers?—A. Yes, sir.

Q. What else?—A. Their clubs.

Q. They carry clubs and revolvers?—A. Yes, sir.

Q. Do not carry any other kind of weapons?—A. No, sir.

Q. Did you ever see any of them have any other kind of weapon?—A. No, sir.

Senator FORAKER. I believe that is all.

By Senator LODGE:

Q. You complain a little of deafness?—A. Yes, sir.

Q. Did that come from your fall that night?—A. It came from being chloroformed, a good deal, and then from the amputation, from losing blood; that is what the doctor says. I could not hear and could not speak at first after my amputation was done.

Q. Your fall with the horse was a hard one; you fell under the horse?—A. While he was struggling he struck me two or three times in the stomach with the pommel of the saddle, and I passed blood for a day or two.

Q. You have never been on duty since?—A. No, sir; because I could not speak, nor I could not hear very well; that is the reason. I am weak and I can not do any night duty.

By Senator FORAKER:

Q. There is one question I want to ask you. If you had not been wounded, do you think you would have had any difficulty in following these men, so as to have seen what became of them?—A. No, sir; I would have been killed immediately.

Q. I say, if you had not been wounded at all, if you had not been hurt, if you had not had your arm shot off, could you not have followed those men and seen where they went?—A. No, sir; it was impossible, because I knew very well if I would face them and find out who they were they would kill me.

Q. But you did follow them around to this point [indicating on map]?—A. I followed them just in order to save the families—the people that were stopping at the hotel.

Q. You do not know anything about where they went after you were wounded?—A. I saw as far as the corner of the alley, and from that I don't know, because I started down to the drug store to have my arm bandaged, and then in a few minutes after that I was unconscious.

By Senator FOSTER:

Q. Lieutenant, was there a light that night in the Miller House, or right in front of the Miller House?—A. Before I gave the alarm there was; yes, sir. There were lights up in the hotel.

Q. When you passed in front of that alley and went by the Miller House was there not then a light burning either in front of the house or in the hall of the hotel?—A. I think there was a light up in the second room by the alley, where the window was, because I saw a lady standing by the window when I gave the alarm to put out the lights and escape the best way they could, because the colored soldiers were shooting at the people.

By Senator FORAKER:

Q. You called out to put out the lights, did you?—A. Yes, sir.

Q. You remember seeing a light in the window and a lady sitting by it?—A. When I got near to the window in the alley, the first window, there was a light up there.

Q. The first window next to Thirteenth street?—A. Yes, sir; just at the entrance of the alley up on the second floor.

Q. You saw that as you went by the alley?—A. I saw a lady by the window.

Q. Did you see any man with her?—A. I did not notice.

Q. There was no firing going on when you passed in front of the alley? These men were not firing their pieces when you went in front of the alley?—A. No, sir; that was before that.

Q. The firing was after they got out to Thirteenth street?—A. Yes, sir.

Q. But you called out, on seeing a light up there? Are you sure there was a light up there at 12 o'clock at night?—A. Yes, sir. The light was up there at Miller's Hotel.

Q. You have a distinct recollection of that?—A. Yes, sir.

Q. You trotted by that alley that is only 20 feet wide, went by on a fast trot, and yet you had time enough to look down the alley and see 15 or 20 men, and to notice that about half were on one side and half on the other?—A. No, no.

Q. Just wait a moment—and at the same time you had time enough to see this woman sitting by the window with the light?—A. It was before this firing when I saw that light.

Q. I know. Certainly it was before, but you went by the mouth of the alley at a fast trot?—A. When I went by the alley I seen the light.

Q. You looked up and saw a light in the window?—A. I was hollering to the people to escape the best way they could.

Q. Was there any other light?—A. I did not notice; I was in a rush.

Q. There is no street lamp in the alley?—A. No, sir; on the street, but in the alley there is none. There is one on the corner of Washington street and one on the corner of Elizabeth street.

Q. No light up there at all?—A. Not in the alley; no.

Q. Was this light standing in the window, or was it simply a lighted room?—A. It was in the room, but it gave light enough out of the window—

Q. You could see there was a light in the room?—A. Yes, sir.

Q. You did not see the light itself, did you?—A. No; I did not see a light; I just saw the light.

Q. You did not see a lamp?—A. No, sir.

Q. Did you see a gas jet?—A. No, sir; I could not tell you anything about it.

Q. Nor an electric light?—A. No, sir.

Q. You could not tell anything about that?—A. No, sir; just the flash of the light.

Q. You looked up and saw the room was lighted, and you saw a woman standing there looking out of the window?—A. Yes, sir.

Q. Could you tell whether there was anybody with her or not?—A. No, sir.

Q. You told her to put out her light?—A. Yes, sir.

Q. Did she obey?—A. I could not tell you, because I went by.

Q. You went so quick you could not tell whether she did or not?—A. No, sir.

Q. At the same time you saw that and gave that order, you also looked down the alley and saw those 15 men?—A. My whole attention was in that alley, because I knew they were coming. I saw them come across from the Cowen's house into that alley.

Q. So, at the most, you took only a glance down the alley?—A. Yes, sir.

By Senator OVERMAN:

Q. In front of that Miller Hotel, what sort of a house is that, a one-story or a two-story?—A. Opposite the Miller Hotel?

Q. Yes.—A. It is a little frame building, only one floor, no second story.

Q. Does it stand back from the street or right on the street?—A. It is right on the corner, faces on Thirteenth street, and then back to the alley.

By Senator FORAKER:

Q. Flush with the alley?—A. It is one story, and it is about 50 feet front in the alley and about 120 feet lengthwise from the corner of the alley to the corner of Washington and Thirteenth streets.

Q. Is that Bolack's store?—A. Bolack's store and house.

Q. Right opposite the Miller Hotel?—A. Yes, sir.

Q. It fronts on the alley and on Thirteenth street?—A. Yes, sir. It is 100 feet long, and the lot is 50 feet. Our lots down there in Brownsville are only 50 feet front.

Q. So if it was even only a one-story building, it would be higher than your head when you were on the horse?—A. It is higher than my head; yes, sir.

By Senator OVERMAN:

Q. Is there a light on the opposite side of Fourteenth street, a lamp-post on Washington street?—A. It is on the corner of Mr. Bolack's lot.

Q. (Referring to the map.) This is Bolack's lot on this side, is it?—A. This is Bolack's here.

Q. And here is the lamp?—A. Yes, sir.

Q. A lamp on this side of the street?—A. Yes, sir.

Q. (Referring to the map.) What sort of a house is right there?—A. That must be Bolack's.

Q. Right across the alley from the rear of the hotel is Bolack's?—A. Yes, sir.

Q. There is no light on Bolack's corner?—A. The lamp-post stands right on the corner of the lot of Mr. Bolack.

Q. Where is Bolack's?—A. I think this is it, because I know that the lamp-post is right on the corner of Mr. Bolack's.

Q. Then this is not Bolack's here [indicating]?—A. No, sir.

Q. The lamp-post is at Bolack's?—A. Yes, sir.

Q. I want to know what sort of a house is there in the rear of the Miller Hotel on the alley?—A. A little frame house.

Q. So that light at Bolack's corner would shine across there to the corner of that alley, would it?—A. Yes, sir.

Q. How far was that small frame house from this alley? How far back from the street?—A. About 50 feet.

Q. So the rays of that lamp at Bolack's corner would shine down the alley?—A. Yes, sir.

Q. And you say you saw those men in the light that shone from Bolack's corner?—A. Yes, sir.

Q. You could see those men in the light in the alley?—A. Yes, sir.

By Senator FORAKER:

Q. (Referring to the map.) Here is the Miller Hotel and there is the alley?—A. Yes, sir.

Q. Now, I want to know what stands on that corner right there in the rear of the hotel, across the alley, on the corner of Thirteenth street and the alley. What stands there?—A. The back of Miller's hotel.

Q. This is the Miller Hotel and this is Thirteenth street. As you come down this way, what is there right on this corner?—A. There is an old frame house that sets in from Elizabeth street. It fronts on Thirteenth street.

Q. How many stories has that frame house?—A. Well, sir, the frame house is very low.

Q. It fronts on Thirteenth street?—A. Yes, sir.

Q. Runs back in the alley?—A. It is next to the Miller Hotel.

Q. It is right opposite the Miller Hotel?—A. Yes, sir.

Q. How far back does it run?—A. About 50 feet.

Q. Is it right on the corner?—A. No, sir; it is farther back, even with the hotel.

Q. Here is the Miller Hotel over on this street. The Miller Hotel has nothing to do with the wall across the alley. What is right in the rear of the Miller Hotel?—A. I can't understand that.

Q. Can you remember whether there is a building there or not on that corner?—A. There is a city lamp there.

Q. That is Washington street?—A. Yes, sir; and where Mr. Bolack's lot is.

Q. He is up there, isn't he?—A. Yes, sir.

Q. It is not down here [indicating]?—A. No, sir. That star on the map means a light, but the lamp-post is right there [indicating].

Q. Can you tell us what is on that corner? If not, I will have to get it from somebody else.—A. No, sir; I can not explain that; I can not understand that.

By the CHAIRMAN :

Q. If you were standing in the alley right behind the Miller Hotel, with your back against the hotel and looking in the opposite direction across the alley, would there be a building in front of you or is that lot vacant?—A. In front?

Q. In front of you as you stood. If this was the Miller Hotel and this was the alley over here, and you were up against the Miller Hotel, looking over across into that next street, is there a house there?—A. Yes, sir; there is.

Q. And does it come up to the edge of the alley, so that the distance from that house to the Miller Hotel would be simply the distance across the alley?—A. It is right across the alley; yes, sir.

Q. Does it face directly on Thirteenth street?—A. Yes, sir.

By Senator OVERMAN :

Q. How far back from the street?—A. From the corner it is 50 feet.

Senator FORAKER. That light he talks about is 50 feet away.

By Senator BULKELEY :

Q. As you ride along Thirteenth street, is this house that stands on the corner as high as your head or taller?—A. The first floor?

Q. No; the whole house.—A. It is a house that is, maybe, 2 feet higher than this ceiling.

Q. So that it would be very much higher than your head, wouldn't it—the top of the house—even if you were on horseback?—A. Yes, sir.

Q. So that if there was a light over in the alley there you could not see it as you came along Thirteenth street, could you? You could not see it over the top of the house?—A. No, sir; not over Bolack's.

Q. If there was a light in the alley you could not see it over the top of the house?—A. No, sir.

Q. So the light on the corner of Washington street, 120 feet away, would not shine in the alley over the top of the house, would it?—A. It could, on Mr. Bolack's.

Q. How high are your lamp-posts?—A. The lamp-posts are, I think, about 25 or 30 feet.

Q. It has been testified here that the lamp-posts were about 12 or 13 feet high.—A. I think it is higher than 12 feet, sir, the lamp-post itself, and it has a lamp about that high [indicating].

Q. Are the lamp-posts as high as this ceiling?—A. The lamp-post is about as high as from the floor to the edge of that map.

Q. That is about the height of the lamp-post?—A. Yes, sir.

Q. Well, that is about 10 or 12 feet, and the house is 20-odd feet high, is it?—A. I mean the iron post is about as high as to the edge of the map there, and then the lamp, I think it is about 2 feet high on top of that.

Q. So the light would not shine over the top of that house into the alley, would it, if the house was 20 feet high?—A. I think so—not very much.

Q. How could it if it was 10 feet below the top of the house? How could it shine over?—A. Because on a part of that lot there is no house, the building is about 20 feet long, and there is no house, just a vacant lot, without any building at all.

Q. Isn't there a building right on the corner?—A. No, sir; it is vacant. Part of the lot is vacant, and there is nothing but a cistern about that high [indicating] and a few shrubs about that high [indicating].

TESTIMONY OF GENARO PADRON.

(The testimony of this witness was translated by the interpreter.)
GENARO PADRON, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Give your name.—A. Genaro Padron.

Q. What is your age?—A. Forty-four years.

Q. How long have you lived in Brownsville?—A. All my life.

Q. You are on the police force?—A. I am.

Q. How long have you been on the police force?—A. Four or five years.

Q. Were you on the force on the 13th day of August last?—A. Yes, sir.

Q. At that time were you on night or day duty?—A. On night duty.

Q. Did you have a regular beat—that is, regular ground to cover?—A. Yes, sir.

Q. What was it?—A. Elizabeth street.

Q. Between what cross streets, calling Twelfth, Thirteenth, and Fourteenth cross streets?—A. My beat reached to the barracks.

Q. Did you hear shooting at Brownsville on the night of the 13th of August?—A. Yes, sir.

Q. I want you now to state, in your own way, taking your own time, what you heard that night of the shooting, what you saw, and what you did. Just describe it carefully.—A. At five or six minutes before 12 o'clock that night I was at the corner of the Merchants' Bank, I and Manuel Alonzo, and Miguel Jagou, and Florensio Vericeno.

Q. State where the Merchants' Bank was—on what street?—A. It was on Twelfth street.

Q. And how near Elizabeth street is it, the corner of Twelfth and Elizabeth?—A. I was on Twelfth street and Elizabeth street goes along there.

Q. What I want to know is where the bank building was. It was on Twelfth street, but where was it with reference to the corner of Twelfth and Elizabeth?—A. Between Eleventh and Twelfth streets.

Q. Fronting on Elizabeth street?—A. It faces on Elizabeth and Twelfth.

Q. It is on the corner?—A. Yes, sir.

Q. Is that Mr. Kelly's bank?—A. The Merchants' Bank.

Q. Go on and state fully where you were, where you went from there, and what you saw.—A. Those that I have mentioned were with me at that time on the corner. We heard a shot in the direction of the barracks. I said to them, "I heard a shot." Then Vericeno ran in front of me, and I ran behind him in the direction from which I heard the shot, to see where the shots were fired. We reached Thirteenth street. Vericeno ran along Elizabeth street. I turned on Thirteenth street and came to the corner of Washington street, and from there to Fourteenth street. I reached the corner of Fourteenth

street, and stopped right at the corner against the wall, when they commenced to fire along the alley at the Miller Hotel. They went out of the alley at Fourteenth street, shooting. I was looking, but concealed so that they should not see me. When I saw that they had crossed and were shooting, I turned back on Washington street and saw the lieutenant, who was coming on horseback. When I saw him I said, "Lieutenant, dismount. On the horse you make a very good mark, and they will shoot you." He dismounted and tightened the girth of his saddle. He then mounted again and we came along Washington street. We reached Thirteenth street and turned into the direction of Elizabeth street. As we turned there, they were shooting along the alley—the alley of the Miller Hotel.

As the lieutenant was coming along Macedonio Ramirez was coming behind. I and the lieutenant were coming in the middle of the street and Macedonio Ramirez was coming along the middle of the street next to the house of Mr. Bolack. Before reaching the alley I said to the lieutenant, "Do not pass there or they will kill you." He said nothing to me. I repeated the same, "Do not pass there; they will kill you," and he said nothing to me. For the last time I said "Do not pass there." He said nothing to me. He never said anything to me. I then turned and concealed myself in an obscure place. Macedonio Ramirez was on the other side of the street. When I concealed myself in the obscure place, when the lieutenant crossed the alley and had gone a short distance, I saw three soldiers who were pointing in the direction that he was going, and they said, "There goes one; fire at him." Then I saw the three fire at him. Three shot, and I saw others coming. I then ran for the corner, and before reaching the corner a group appeared.

By Senator FORAKER:

Q. What corner was that?—A. The corner there that they call the Sombrero, or Hat, corner, Thirteenth and Washington. I ran back to the corner of Thirteenth and Washington. When I saw that they had fired at the lieutenant I fired a shot with my pistol, and then they fired at me. I fired another shot before reaching the corner. I then turned the corner, called the Corner of the Sombrero, and ran to a group of trees that were there, in order to hide myself so that they could not see me. When I reached the middle of the street they saw me and they fired at me again. I reached the corner of Twelfth street and they again fired repeatedly, and I ran to Eleventh street. They reached the corner of Twelfth street, and I do not know where they turned to. I reached the corner of Eleventh street and turned toward the national bank by Eleventh street. There I turned on Elizabeth street, taking the direction of the corner of the other bank. I reached the other corner of the bank, when I heard somebody call me from behind. I did not wish to reply until I could know who it was. It was the mayor, Dr. Frederick Combe, and his brother, Joe Combe, who were together. They said, "What has happened—what is occurring?" I said, "Mayor, the soldiers have left the barracks and I believe that something has happened to the lieutenant, because he should have come along this street, and I did not meet him." Then we took the direction toward the corner of the Merchants' Bank, and we saw a blood stain upon the sidewalk, and I said, "Here, a wounded man has passed." Then I lit a match and looked at it

and said, "Yes; this is blood." From there we went in the direction of Miller's Hotel, and then other people commenced to gather. In a short time Mr. Victoriano Fernandez spoke to me from the door of Mr. Tillman's saloon. He told me not to allow anyone to enter until the justice of the peace should come and see the dead man who was there. I was there at the door until the justice of the peace arrived. Then there were a great many people there.

By Senator WARNER:

Q. When you speak of seeing soldiers, how do you know that they were soldiers?—A. Because they wore the uniform of soldiers—yellow.

Q. Were you near enough to tell whether they were white men or colored men?—A. I could not tell, in view of my surprise, as they were firing at me.

Q. Are you sure that they had the soldiers' uniform and were soldiers?—A. The uniform was the uniform of soliders. More than that I can not say, whether they were soliders or not.

Q. Were they armed with guns?—A. They were armed with guns. It was possible to see that.

Q. At what point was it that you saw those soldiers come out?—A. They went out of the alley to the corner known as the hotel of Mrs. Leahy.

By Senator FRAZIER:

Q. Is that the corner of Fourteenth street?—A. Yes, sir.

[Senator Lodge pointed out the location of the various buildings on the map.]

Senator BULKELEY. There are two Leahy hotels, one in back of the Miller House.

Senator LODGE. The Leahy House is No. 3.

The WITNESS. I was at this corner of Fourteenth and Washington streets when they came out of the alley between Washington and Elizabeth streets.

Q. When they came out of the alley they crossed Fourteenth street, did they?—A. Yes; they crossed it in that direction.

Q. In the direction of the Miller Hotel, that was on Thirteenth street?—A. Yes, sir.

Q. When these men appeared, coming out of the alley between Elizabeth street and Washington street at Fourteenth, did you then recognize them as being soldiers?—A. Yes, sir; because by the light which resulted from their firing I saw all of their uniforms.

Q. In what direction were they firing?—A. Who?

Q. The soldiers?—A. They were not shooting at me.

Q. In what direction, if you know, were they shooting or were they pointing their guns when they fired?—A. They were shooting, but I do not know in what direction they were shooting.

Q. I suppose you were considerably excited, were you?—A. I was astonished, in view of what had passed.

Q. When you met the lieutenant of police, did you state to the lieutenant who it was, of anyone, who was shooting up the town, whether it was troops or not, and what did you say?—A. I told the lieutenant of police that the soldiers were shooting.

Q. Why didn't you attempt to arrest the men who were doing the shooting?—A. It was impossible. When there is a force over which you have no control it is impossible to do that.

Q. And instead of trying to arrest these armed soldiers you were looking out for your own safety?—A. I was looking for my own defense.

Q. Why did you want the lieutenant of police to go back and not go down farther in the direction in which he was going?—A. To see if we could devise some plan so that if they came against us we might protect ourselves.

Q. And when the chief did not do that, you retreated?—A. I remained back and concealed myself in the darkness to see what would occur.

Q. When the chief passed the mouth of the alley going down Thirteenth street did you see the soldiers shooting at the chief of police as he went down past the alley?—A. I saw them fire in that direction, but whether at him or not I do not know.

Q. How many soldiers were there there at the time?—A. From ten to twelve, more or less.

Q. When you say you concealed yourself, how far was that from the alley?—A. Seventy-five feet.

Q. That is, you were then between the alley and Washington street?—A. I was between Washington street and that alley.

By Senator FORAKER:

Q. Point out where you were.—A. I was about there [indicating on the map].

By Senator WARNER:

Q. About how many feet, if you remember, was that from Washington street?—A. About 25 or 30 feet.

Q. What was there there that enabled you to hide yourself?—A. There was a door there that set into the wall at little, and I hid myself in the doorway.

Q. In what building was that doorway?—A. In what we call the "House of the Sombrero." There is a silversmith's shop there now.

Q. Where was Bolack's place?—A. Here it is [indicating].

Q. On the other side of Thirteenth street from the Sombrero House?—A. Mr. Bolack's house is here between Thirteenth and Fourteenth, and the Sombrero House is here between Thirteenth and Twelfth.

By the CHAIRMAN:

Q. What is on the other side?—A. Between Washington street and this alley is the House of the Sombrero. At one time there was a hat store there, and that is why they call it that.

By Senator WARNER:

Q. Did you ever have any other feeling except that of friendship for the colored troops?—A. No feeling.

Q. Did you go down to the barracks while they were there?—A. They had been there but a short time, but I visited them, and I walked among them—walked where they walked without fear.

Q. Did you ever arrest any of them while they were there?—A. No, sir.

Q. Did you have any trouble whatever with any of the colored soldiers?—A. No, sir.

Q. Did you ever hear any of the police or any of the citizens of Brownsville make any threats against the colored soldiers if they came or after they came?—A. No, sir.

Q. Did you ever say to anyone or at any place that you did not want the colored troops to come there?—A. No, sir.

Q. Or that you were afraid there was going to be trouble if they did come there?—A. No, sir.

Q. Have you ever stated that the people of Brownsville would not allow the colored soldiers to stay there?—A. No, sir.

Q. Did you ever say that there was bound to be trouble if the colored soldiers came to Brownsville?—A. No, sir.

By Senator FORAKER:

Q. How long had you been at the Merchants' National Bank corner when this firing commenced?—A. I had not been there long.

Q. Where had you been before that?—A. I had taken a turn around the alley to see what was happening in the alley.

Q. Which alley?—A. The alley of the Miller Hotel.

Q. The alley in the rear of the Miller Hotel?—A. From Thirteenth street, in this direction.

Q. Had you been inside any buildings that evening?—A. No, sir.

Q. Had you been in the Ruby saloon at all?—A. In the door; looking in.

Q. Had you been in Crixell's saloon that evening?—A. On the sidewalk; looking in.

Q. But had not gone inside?—A. No, sir.

Q. How many shots did you hear before you left the Merchants' National Bank corner?—A. I don't remember, but at the sound of the first shot I ran in that direction.

Q. You ran down Elizabeth street, toward the fort?—A. Yes, sir.

Q. And this bank is on the corner of Eleventh and Elizabeth, is it?—A. No, sir; the corner of Twelfth street.

Q. It is on the corner of Twelfth, just one square beyond the Miller Hotel?—A. Yes, sir; one square from the Miller Hotel.

Q. Then you ran from the corner of Twelfth and Elizabeth, down Elizabeth, toward the fort, how far?—A. To the corner of the Miller Hotel.

Q. That would be Thirteenth street?—A. Yes, sir.

Q. Then did you turn off Elizabeth street?—A. I went along Elizabeth street to Washington street.

Q. Now, as you passed the alley between Elizabeth and Washington streets, did you see where the men were who were doing the firing?—A. At that time, no.

Q. Was there any firing going on at the time you were going from Elizabeth street up to Washington street?—A. I heard some, but it was very slow.

Q. State whether you heard a bugle call.—A. When they were shooting, and then I heard the bugle.

Q. Where were you when you heard the bugle?—A. I am not sure whether I was approaching the corner of Thirteenth street when I heard the bugle. As to that point I am not positive.

Q. Do you mean the corner of Thirteenth and Elizabeth?—A. I am not sure, but it seems to me I was coming from Thirteenth to Fourteenth when I heard the bugle.

By Senator FRAZIER:

Q. Over here on Washington street?—A. On Washington street.

By Senator FORAKER:

Q. Then you had run one square toward the fort on Elizabeth and one square up to Washington on Thirteenth and were on your third square when you heard the bugle?—A. I had gone to the corner of Fourteenth street when I turned and was coming with the lieutenant. Then, it seems to me, although I am not sure, that I heard the bugle.

Q. Had you seen any flashes of the guns before you heard the bugle?—A. Yes, sir.

Q. Had seen flashes before you heard the bugle?—A. Yes, sir.

Q. Where did you first see the flashes of the guns?—A. In coming out of the alley of Mrs. Leahy, on Fourteenth street.

Q. Did you see the flashes of any guns before you got to Fourteenth and Washington streets?—A. No.

Q. You did not see any flashes when you passed the alley going up toward Washington on Thirteenth street?—A. No.

Q. Was there any firing going on when you passed that alley on Thirteenth street?—A. I did not fix my attention on whether there were shots in the alley or not.

Q. Why did you go up to Washington street before turning toward the fort?—A. To take advantage of a street upon which there was light.

Q. Was there no light on Elizabeth street?—A. Yes.

Q. How did you know where the firing was?—A. Only by the direction, but I was going to find out where it was.

Q. Where did you think it was?—A. I could not tell, and I ran to find out.

Q. When you got to the corner of Fourteenth and Washington streets, then what did you do; did you stop there?—A. I stopped at the corner.

Q. Did you go any farther before the lieutenant of police came?—A. The lieutenant arrived much later than that.

Q. Did you remain there until he arrived?—A. Before he arrived I went back.

Q. You went back where?—A. Along Washington street.

Q. But in questioning you, I had got no further with you than Fourteenth and Washington streets. Did you go down Fourteenth?—A. I only reached the corner.

Q. Fourteenth and Washington?—A. Yes, sir.

Q. Where was the firing when you reached the corner of Fourteenth and Washington?—A. They were heard in the alley.

Q. You did not go any nearer the alley than Washington street?—A. No.

Q. Is there any light on Fourteenth street between Washington and Elizabeth streets, any lamp?—A. Yes, sir; there is.

Q. Is there a lamp between—A. This corner is the hotel of Madam Leahy, and there is a street lamp. In that corner, to which I am now pointing, there is another lamp.

Q. Is there any lamp between the two?—A. No.

Q. And you were no closer to the alley than there?—A. Only to that corner. I only went to that corner.

Senator WARNER. The lots are 120 feet.

By Senator FORAKER:

Q. There is the width of the lot, and where were you in Washington street? Were you in the middle of the street?—A. I was close up against the corner.

Q. Did you from that point watch the firing at the Cowen house?—A. I fixed my attention upon the fact that I had heard the shots along the alley here [indicating].

Q. But I want to know about the shots you saw, the flashes?—A. When I was at this corner I saw shots at the alley.

Senator WARNER. When he says "this corner," let him say what he means, so that the record will show.

By Senator FORAKER:

Q. At which corner did you see the shots—at the corner of the alley and Fourteenth street?—A. I was here [indicating].

Q. That is, you were at Washington and Fourteenth streets?—A. When they were shooting here at the mouth of the alley.

Q. Now, were they not shooting into the Cowen house at that time?—A. It is impossible to state, because I was not there.

Q. Well, but you saw the flashes.—A. I saw the explosions, but I can not say where they were shooting.

Q. Were they shooting toward you?—A. No.

Q. Didn't they have their backs to you, and were they not shooting into the Cowen house from that point?—A. I don't know.

Q. Did you not know from what you learned afterwards that the Cowen house was fired into?—A. I don't know. I have heard them say, but I have not gone to make a personal examination.

Q. Have you not seen the Cowen house since this affair?—A. No, sir; I have not gone to see whether it was shot at or not.

Q. Does not the Cowen house front on the alley and on Fourteenth street?—A. It has a front on the alley and on Fourteenth street.

Q. Then, if it was fired into, would not the men of necessity fire from the opposite side of Elizabeth street or the alley?—A. I don't know which side they fired from.

Q. Could they fire into the house from the same side that the house is on?—A. I don't know.

Q. Would not the guns have to be pointed toward the house if they fired into it?—A. I am not able to know.

Q. Did you ever see a gun fired?—A. I have seen a number fired.

Q. Do not the shots always go in the direction in which the gun is pointing?—A. One being near can tell, but being some distance away and seeing nothing but the flashes, I can not tell.

Q. If the Cowen house was fired into from that point, did not the men of necessity have their backs toward the point where you were stationed?—A. I can not say; I don't know.

Q. And yet you tell us that by the flashes of the guns from that firing you were able to tell what kind of uniforms these men were wearing?—A. I could see the uniforms from the light resulting from the explosions, and from the light which came from the street lamp.

Q. The street lamp was 120 feet away from where the men were stationed?—A. I don't know how far it was away, but I could see from that light.

Q. Did you see it from the flashes or from the street lamp?—A. From the explosion I saw it, and that was aided by the light given by the street lamps.

Q. How much could you see of the soldiers from the flashes?—A. I saw them shoot, but I could not tell how many were shooting.

Q. How many do you think there were there?—A. I could not say; I am not sure.

Q. Did you see what kind of coats they were wearing?—A. Yellow.

Q. Did they all have on yellow coats?—A. Those which I saw; yes, sir.

Q. Can you tell how many you saw with coats on?—A. I don't remember how many I saw at that point.

Q. Did you notice whether they had on leggings?—A. They had on leggings.

Q. You could see those, too, by the flashes?—A. I saw everything yellow down to the feet.

Q. They had on yellow pants?—A. Perhaps they were leggings; I am not sure, but they were yellow down to the feet.

Q. Did they have on hats or caps?—A. They had on hats.

Q. Could you see the color of their faces?—A. I could not see them.

Q. Did you see the color of their faces at any time?—A. By day; yes, sir.

Q. Had this firing stopped when the lieutenant arrived at Washington and Fourteenth?—A. As he was going along Washington street they were firing but very slowly.

Q. But I want to know whether this firing that lighted up the faces of the men so you could tell their uniforms, whether that was over when the lieutenant arrived?—A. I returned from the corner of Fourteenth and Washington, along Washington, and there I met the lieutenant.

Q. Did not the lieutenant come to Fourteenth and Washington streets?—A. No; he came to about the middle of the square.

Q. So you met him while you were returning?—A. Yes, sir.

Q. Why were you returning?—A. Because I saw that they were passing along the alley.

Q. Did the lieutenant go down with you to Fourteenth and Washington?—A. No; he did not reach that point.

Q. Then if the lieutenant testified here this morning that he stood with you at the corner of Fourteenth and Washington and looked down Fourteenth and saw two squads of 4 men each, in the alley, across Fourteenth street, he is mistaken, is he?—A. I do not know, but I met him before he reached the corner.

Q. Did the lieutenant go to the corner or did he turn where you met him?—A. He returned back.

Q. Did not go down to the corner at all?—A. No.

Q. What conversation did you have with the lieutenant when he came up?—A. I said, "Lieutenant, dismount from your horse."

Q. And did he dismount?—A. He dismounted and tightened the girth.

Q. And that was not at the corner, but in the middle of the square?—A. I can't say that it was exactly in the middle, but it was not at the corner.

Q. Not at the corner, and he did not go down to the corner?—A. No, sir; he did not reach the corner.

Q. Did you say anything to him about the soldiers having shot up the Cowen house?—A. I said nothing to him about it.

Q. So that if he testified that you told him when he came up and joined you that the soldiers had come out and were shooting up the Cowen house, that they had just finished shooting up the Cowen house, that also is a mistake, is it?—A. I did not say to him that they had shot up the Cowen house.

Q. You did not know that the Cowen house had been fired into at all, did you?—A. I did not know that they had shot into the Cowen house until I heard it from others. I did not see it.

Q. And you did not tell anybody that the Cowen house had been fired into?—A. No, sir.

Q. Now, state whether other people could not be wearing uniforms, or clothing, which looked like that which the soldiers wore there in Brownsville at that time.—A. The policemen had yellow clothing.

Q. Very similar, was it not?—A. It was something similar, but not equal.

Q. Could you tell the difference between the soldiers' uniform and the police uniform 120 feet away at midnight, of a dark night, simply from the flashes of the guns?—A. The police there had no guns.

Q. I am talking about the uniforms.—A. There are not enough police in town to form a group such as was coming there.

Q. I am simply asking you whether or not you can tell the difference between the uniforms under those circumstances?—A. I am not sure that I could distinguish it. It is impossible.

Q. I thought so. Was khaki clothing like the soldiers wore, or similar, to be obtained almost anywhere, in any store in Brownsville, at that time?—A. I think so, because there was some there at that time.

Q. Now, Officer, when you met Dominguez he turned and went back to Thirteenth street, did he?—A. Yes, sir.

Q. And you went with him?—A. He was on his horse and I was on foot.

Q. Did he give you any instructions of any kind?—A. No.

Q. Did you keep along by the side of him as he rode?—A. Yes, sir.

Q. Did you keep up with him until he got to the corner of Thirteenth and Washington?—A. Yes, sir.

Q. Did you keep up with him as he went toward Elizabeth street on Thirteenth?—A. Yes, sir; I accompanied him on Thirteenth street.

Q. How far did you go on Thirteenth street?—A. I accompanied some 60 feet.

Q. Then how did you come to separate?—A. We separated because he did not wish to heed my advice to not pass there.

Q. Was that the point at which you told him not to pass the alley—60 feet from Washington street?—A. More or less. It was at that point that I told him two or three times not to pass.

Q. Did you tell him not to pass the alley before you turned off Washington street?—A. No.

Q. How did you know they were coming up as far in the alley to Thirteenth street?—A. Because I saw them passing along in the alley to Fourteenth street.

Q. They had passed Fourteenth street on the alley before you left the corner of Washington, had they not?—A. As I saw them passing along the alley, crossing Fourteenth street, then I left the corner of Fourteenth and Washington.

Q. How many did you see cross Fourteenth street at the alley?—A. As I said before, I can not say how many I saw pass.

Q. Are you sure that Lieutenant Dominguez did not see anybody pass across Fourteenth street on the alley?—A. I can not know whether he saw or did not see them.

Q. Could he have seen them if he got no farther along Washington street than the middle of the square toward Fourteenth?—A. He might have seen them, because the lot there is simply surrounded with a picket fence, which is low, and the lieutenant was on horseback.

Q. Was there any light by which the lieutenant could have seen them?—A. I can not say whether he could see them or not, because I did not have my eyes where he had his.

Q. What did you do when you separated from the lieutenant and declined to follow him any farther?—A. I went to an obscure spot.

Q. That is the doorway you mentioned a while ago?—A. I went into the obscurity provided by this door.

Q. Up to this time had you sounded any alarm or made any call for any other policeman to come and assist?—A. I called no one.

Q. Did you see any other policeman?—A. Macedonio Ramirez; that was on the opposite side of the street.

Q. What street?—A. Of Thirteenth street.

Q. Where did Macedonio Ramirez appear on the scene?—A. At this time, when I was there.

Q. Where did you first see him after the firing commenced?—A. Before I reached Thirteenth street.

Q. While you were on Washington street?—A. Yes, sir.

Q. Where was Ramirez when you saw him first?—A. He was walking on Washington street.

Q. On which side of the street?—A. Going in that direction; he was on the left-hand side.

Q. Was he going toward the fort?—A. The direction in which we were coming on Washington street.

Q. He was going in the direction away from the fort, then, on Washington street, when you first saw him?—A. He was going in the direction of the barracks.

Q. Did he turn and go back with you and the lieutenant?—A. He then came with us.

Q. Now, when you went into this obscure place, into the doorway, what became of Ramirez?—A. He was on the opposite side of the street.

Q. He was over where Bolack's building was?—A. At the side of Bolack's house.

Q. What did Ramirez do?—A. I don't know.

Q. Did you see him any more that night?—A. No, sir; not until after much time had passed.

Q. How long did you stay in that doorway?—A. A very short time.

Q. You were in the doorway when you saw the lieutenant fired upon by the three men?—A. Yes, sir.

Q. You had reached that place and taken your station there?—A. Yes, sir.

Q. Can you tell us where Ramirez was at that time and how he was obscured?—A. I can not say. My attention was fixed upon the lieutenant.

At 4.35 o'clock p. m. the committee adjourned until Friday, May 17, 1907, at 10.30 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Friday, May 17, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF GENARO PADRON—Continued.

By Senator FORAKER:

Q. Look at the list of names which I now hand you, and state if that is a correct list of the police force of Brownsville on the 13th of August last year [handing list to witness].

Senator WARNER. I would suggest, Senator Foraker, that if the chief has sent that in it is all right.

Senator FORAKER. Yes; the chief has sent it in, but I want to get it in the record.

(The list referred to is as follows:)

Police force of Brownsville.—George Connor, chief; M. Y. Dominguez, lieutenant; Joaquin Treviño, day police; Victoriano Fernandez, day and night—at time of shooting, day duty; Marcellus Daugherty, day and night—at time of shooting, on night duty; Dionisio Lerma, night; Rafael Galvan, night; Vidal Rivas, night; José Coronado, night; Felix Calderón, night; Macedonio Ramirez, night; Genaro Padron, night.

A. (After examination of list.) This is the list of the police, but all were not in service that night.

By Senator FORAKER:

Q. Were they in service as indicated on that paper?—A. The list is correct, but they were not all in service that night.

Q. Indicate what policemen on that list were not in service that night.—A. There is one lacking, Cesario Leal.

Q. Adding his name makes a total of how many?—A. Nine.

Q. Were there not ten in addition to the lieutenant?—A. There is one lacking, Cesario Leal.

Q. And that would make 10, would it?—A. There are 12 names now.

Q. Now? With that added?—A. No; without that.

Q. So that there were 13 in all, counting the chief?—A. Counting the chief.

Q. Please indicate on that list what policemen were on duty that night.—A. Yes, sir.

(The witness here marked with a pencil upon the list the following names:)

M. Y. Dominguez, lieutenant; Dionisio Lerma, night; Rafael Galvan, night; Vidal Rivas, night; José Coronado, night; Felix Calderón, night; Macedonio Ramirez, night; Genaro Padron, night; Cesario Leal, night.

By Senator FORAKER:

Q. Were all those on the force that night except two?—A. George Connor was not in service that night. He was in the house, or somewhere; I do not know where.

Q. He was the chief?—A. He was the chief.

Q. Go ahead.—A. These three, Joaquin Treviño, Victoriano Fernandez, and Marcellus Daugherty, as well as George Connor, the chief, were not in service that night.

Q. I understand that the list which has been offered in evidence was prepared by the lieutenant of police, and it indicates that Daugherty was on duty that night. Is that correct or not? You have just testified that Daugherty was not on duty that night; what is the fact?—A. These are the facts, as given me by the lieutenant.

Q. Will you state whether Daugherty was on duty that night? I call your attention to the fact that the lieutenant indicates on that paper as I have stated.—A. I do not know, because I do not know whether he was named for service that night or not.

Q. It has been testified in this case that two of the policemen, when the shooting commenced, were at the Leahy Hotel, and that they were shut up by Mrs. Leahy in some room and kept there for two hours. Do you know which two they were?—A. I do not know; I did not see them.

Q. Did you hear of it?—A. I have heard it said, but I did not see.

Q. Can you tell us which two they were, according to the report that came to you?—A. Of those, only one on this list, José Coronado. He is one of whom I have heard this story told.

Q. Can you tell us who the others were?—A. Florencio Briseño.

Q. Briseño and Coronado are the two, then?—A. Yes, sir; they are the two.

Q. They are the two whom it is claimed Mrs. Leahy shut up in a room?—A. Yes, sir.

Q. You have no personal knowledge of that?—A. No, sir; I did not see them.

Q. Was not the Leahy Hotel on your beat, and not on their beat?—A. Yes; upon the street and alley.

Q. What were they doing on your beat, off of theirs, at the Leahy Hotel, at midnight?—A. José Coronado was in his place, because the

streets of Brownsville are thus [indicating]. He had all of this street to the river bank, and I cared for Elizabeth street, up.

Q. So I understand. Where was the beat of the other policeman that you mentioned—Briseño?—A. Briseño was not in service.

Q. Do you mean that he was not on duty?—A. He was not in service—not on duty.

Q. Not on duty. He was on the force, however, a member of it at the time?—A. Yes, sir. He was a special policeman, so that when there was a lack of a regular policeman he would then take duty.

Q. At what time did you quit the place where you took refuge, on Thirteenth street, in the doorway?—A. I can not say what hour it was.

Q. I mean with reference to events. Was it after the lieutenant had been wounded and his horse killed?—A. I can not say. While there I saw they were shooting in his direction, but I can not say whether he was wounded or not.

Q. Did you see the horse fall?—A. No, sir.

Q. Were you not looking in that direction?—A. No; because I had not time to see.

Q. Were you not watching the firing at the time when these men were shooting at the lieutenant?—A. I was looking, but did not look at results. I was engaged in hunting a place to hide myself.

Q. When was it you fired your pistol the first time?—A. When I left that place where I was.

Q. At whom did you fire your pistol?—A. At them.

Q. Where were they when you fired your pistol at them?—A. They had just come out of the alley and were in the middle of the street.

Q. Had they yet fired on the lieutenant?—A. When they fired at the lieutenant, I fired at them.

Q. And then did you immediately quit your place?—A. Yes, sir; I left there and came and looked for protection at the corner.

Q. Where did you go after you got to the corner?—A. On Washington street. I went along under a row of trees that afforded much protection, so far as darkness or shade was concerned.

Q. Did you fire your pistol at these men more than once before you retreated to Washington street?—A. I fired twice. Reaching the corner, I fired on Thirteenth street.

Q. Did you fire two additional shots at the corner to the one you had fired from your place of hiding?—A. No, sir.

Q. Only two altogether?—A. Two; no more.

Q. Did they return the fire and make pursuit?—A. They fired at me and came along Thirteenth street looking for me. They came to Washington street looking for me, and when they saw me they fired at me.

Q. How close were they to you when they fired at you?—A. Who knows? I can not tell the distance, because I was running.

Q. Were they running also?—A. Not very fast—no.

Q. Did you at that time sound the alarm and call for help, or take any other steps to get assistance?—A. No, sir.

Q. Where did you next see these men?—A. After the shots—after they fired at me. The last time that I saw them was upon reaching Twelfth street.

Q. Twelfth and Washington streets?—A. Yes, sir.

Q. Where were they then?—A. As I reached Twelfth street I looked back and saw them, but I do not know what direction they took.

Q. Do you not know that they did some firing on Washington street?—A. Yes, sir; for they came along there.

Q. Where were you when they were firing on Washington street?—A. Did I not say to you that I was running along there in the shade?

Q. You did not stop to see what they were firing at on Washington street, but kept on running, did you?—A. No; I kept on running.

Q. Do you not know that they did not continue after you on Washington street beyond the point where they fired into the Starck house?—A. I know nothing about that.

Q. How long did the firing continue on Washington street at the Starck house?—A. It is impossible for me to say how long it continued.

Q. Did you make any effort at all to pursue these men—to keep in sight of them and find out where they went?—A. Me? No. I was entirely occupied in looking for my own defense.

Q. Where did you go after you got to Twelfth and Washington streets?—A. Along Washington street to Eleventh street.

Q. Then where?—A. I there turned for the bank of Mr. Kelly, on Eleventh street.

Q. Is that on the corner of Eleventh and Elizabeth streets?—A. Yes, sir.

Q. That is the First National Bank, is it not?—A. Yes, sir.

Q. What did you do when you got there?—A. I turned onto Elizabeth street.

Q. And went where?—A. To the other corner.

Q. And then you had completed a circuit and gotten back where you started from, had you?—A. Yes, sir.

Q. How long did you remain there?—A. After making the circuit?

Q. Yes.—A. I do not know, because I did not look at the clock.

Q. Was there any assembling of the police force that night that you know about?—A. After all this passed we all united in the commercial street.

Q. The whole force?—A. Some I saw there; others I did not see.

Q. How many did you see? Give us the names of them.—A. Victoriano Fernandez was one; George Connor was another.

Q. That is the chief of police?—A. Yes, sir. Marcellus Daugherty.

Q. That is three.—A. Felix Calderon, Vidal Rivas, José Coranado, Briseño, Cesario Leal. I do not remember who else.

Q. This was after the firing was all over?—A. Yes, sir; after all.

Q. Did you learn from the policemen who were thus assembled whether any of the rest of them had done any firing that night?—A. No, sir.

Q. Did you not hear them say whether they did or not?—A. I do not know whether they fired or not.

Q. What was your idea in firing?—A. They were firing at me, and very naturally I fired at them.

Q. You fired at them because they were firing at the lieutenant, did you not?—A. They were firing at my companion; yes, sir.

Q. You did not think you were violating the law, as an officer of the law, in firing on these marauders, did you?—A. It is impossible to know, because they also were violating the law.

Q. Now, at what place were you closest to them that night?—A. In front of the house of Señor Bolack.

Q. About how far away were you from them at that time?—A. About 70 feet.

Q. That was when you stood in the doorway?—A. Yes.

Q. And at the time when they were firing upon the lieutenant of police?—A. Yes, sir.

Q. How many shots were fired at that time? How many were firing, I mean?—A. I can not say how many.

Q. But you knew they were firing at the lieutenant?—A. Three there were that I saw that were shooting.

Q. Three?—A. If there were more, I do not know.

Q. Then the other time you saw them firing you were stationed at Fourteenth and Washington streets, and they were down in the alley behind the Cowen House, were they not?—A. The first time I saw them fire they were on Fourteenth street.

Q. At the alley?—A. I? No; I was in Washington street.

Q. Yes. These men were down at the alley?—A. They crossed Fourteenth street, following the alley.

Q. Yes. And that is when you saw them firing the first time?—A. Yes, sir.

Q. And the only other place where you stood and watched them firing was when you were in the door of Bolack's place?—A. Yes. And when they followed me on Washington street also.

Q. How close did they get to you when they were following you?—A. I can not say, but they were some distance—retired some distance from me.

Senator FORAKER. That is all.

Senator WARNER. I have no questions.

By Senator FRAZIER:

Q. When you were at the corner of Washington street and the men were crossing Fourteenth street at the alley could you see them distinctly?—A. Distinctly—the face, no. The dress I saw.

Q. Did you see that they had guns and were firing?—A. Yes; because I could see the flash.

Q. Could you tell from their clothing and their dress generally, and their guns, whether they were soldiers or not?—A. The clothing was the clothing of soldiers, and the rifles also.

Q. Are you certain as to the place where you met the lieutenant, whether he got as far as the corner of Fourteenth and Washington streets before he turned back or not?—A. I am not sure, because I did not see him.

Q. You met the lieutenant somewhere between Fourteenth and Thirteenth streets, did you not?—A. A short distance; yes, a short distance.

Q. You are not sure, then, whether the lieutenant got as far as Fourteenth street as he was going down Washington street or not?—

A. I can not say whether he came behind me, because I was looking in the other direction, toward the alley.

Q. You did speak to the lieutenant somewhere near the corner of Fourteenth and Washington streets?—A. Yes, sir.

Q. Did you there tell him that the men were shooting up the town, or the soldiers were shooting up the town?—A. I told him that the soldiers were coming along the Cowen alley, which is the same alley as the Miller Hotel alley.

Q. Did you tell the lieutenant that they were shooting the town, or shooting up the town, or shooting down there?—A. That they came along the alley, shooting.

Q. Along the alley, shooting. When you turned down Thirteenth street following the lieutenant, how close did you get to the alley before you turned back and went into this doorway?—A. To a point in front of the house of Señor Bolack.

Q. How far were you, when you turned back after the lieutenant went on across the alley, from the alley? The question is, How far did you get down toward the alley before you turned back into the doorway?—A. To in front of the door of the house of Bolack.

Q. About how far is that from the alley, where it crosses Thirteenth street?—A. It is 25 feet, more or less.

Q. Twenty-five feet, more or less. Could you at that point see the soldiers or the men distinctly?—A. No; because I did not stay there. I went back.

Q. Could you see them distinctly, from your position in the doorway, as they came out into Thirteenth street and shot at the lieutenant?—A. Yes; I saw them.

Q. Did you there recognize that they were soldiers?—A. I could not know, but I saw the dress which they wore, the clothing which they wore.

Q. Was that the clothing of the soldiers?—A. Yes, sir.

Q. Did you notice whether they had on the army regulation hat?—A. All but one had on hats, but one either had nothing, or a cap. All you could see above the neck was black or dark.

Q. Could you tell that the faces of the men you saw were darker than their uniforms?—A. I can not say, because I did not see them near.

Q. The one you noticed, who did not have on a hat, you say was dark as to his face?—A. As they passed near a light I saw this one that either had a cap, or was bareheaded, plainly, in the light. The others were shadowed by their hats.

Q. The one you saw plainly who did not have on a hat, was he a black man or a white man?—A. He appeared negro.

Q. He appeared to be a negro. Did you pass the Starck house as you went out Washington street, retreating or running from the men firing?—A. Yes; I passed on the other side.

Q. Do you know whether or not the men followed you beyond the Starck house?—A. I do not know. I judge that—yes; they followed me to the corner of Twelfth street.

Q. Did you see them any more after you passed Twelfth street?—A. When they got to the corner they turned, and I saw them by the light of the street lamp.

Q. They turned which way?—A. In the direction of the commercial street.

Q. Where is Commercial street? It does not seem to be marked on that map.—A. That is, Elizabeth street.

Q. Elizabeth street?—A. Yes.

Q. You do not know which way they went after that?—A. No, sir.

Q. After you reached Eleventh street and turned down toward Elizabeth street did you hear firing in your rear, back on Washington street?—A. I do not recollect.

Senator FRAZIER. That is all.

By Senator FORAKER:

Q. How many were there up at the corner of Twelfth and Washington streets when they turned toward Elizabeth street?—A. There were five or six, more or less.

Q. What had become of the rest of them, if you know anything about that?—A. I do not know.

Q. Had you at any time heard of any others having become separated from those who pursued you?—A. I do not know whether they separated from each other or not.

Q. You spoke about one of the men being bareheaded, and you saw that he had no cap or hat on when he passed under the light. What light did you refer to?—A. I should say he was bareheaded, or wore a cap.

Q. What light was it he passed under?—A. The light which is in the corner of the lot of Bolack.

Q. Then they came around the corner of Thirteenth and Washington streets in pursuit of you?—A. They? Yes.

Q. How far away from them were you at that time?—A. It was some distance, because when I saw that they were pursuing me I ran rapidly.

Q. Were you not more than the distance of a whole square away from them; that is, if you had passed Twelfth street when they turned the corner of Thirteenth?—A. No.

Q. How far were you?—A. It was some 80 or 90 feet, more or less.

Q. Did you not tell us yesterday, repeatedly and insistently, that the lieutenant of police did not get as far on Washington street as Fourteenth street before you met him?—A. I said that, but I did not see him get that far.

Q. Did you not state yesterday that you had left the corner of Fourteenth and Washington streets and had started back toward Thirteenth street on Washington street, and that you met the lieutenant somewhere in the square?—A. Yes; when I left the corner of Fourteenth and started back I there met the lieutenant; I then met the lieutenant.

Q. Is your testimony as you gave it yesterday on that point correct, and do you wish it to stand?—A. Yes; because what I said is the truth.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Just one question. Have you read over the testimony that was given yesterday yet?—A. No, sir.

Senator WARNER. That is all.

By Senator FORAKER:

Q. But you remember what you said yesterday, do you not?—A. Yes, sir.

Senator FORAKER. That is all.

(Witness excused.)

TESTIMONY OF GEORGE THOMAS PORTER.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Your name in full is George T. Porter, is it not?—A. Yes, sir.

Q. Where is your home?—A. My home at present is Brownsville, Tex.

Q. How long have you lived there?—A. I have lived in Brownsville since a year ago—about a year ago in January.

Q. What is your business?—A. I am general agent of the B. & M. Railroad.

Q. Stationed at— A. Brownsville, Tex.

Q. Where was your home before that?—A. Chicago, Ill.

Q. You are a native of Illinois?—A. No; I was born in Oconto, Wis.

Q. You went from Chicago to Brownsville?—A. To Brownsville; yes, sir.

Q. Are you a married man?—A. Yes, sir.

Q. Is your family living in Brownsville?—A. Yes, sir.

Q. Were you there on the night of the 13th of August last year?—A. Yes, sir.

Q. You heard something of this shooting up of the town, did you?—A. Yes, sir.

Q. Now, Mr. Porter, in your own way just tell what you heard.—A. Well, I should judge about 12 o'clock at night Mrs. Porter came to my room in a very excited state of mind and woke me and told me that there was shooting going on. She occupied a room in the front part of the house and the children occupy a room between my bedroom and hers. I got up immediately and went to the front of the house through a big hall, and the shooting was still going on, toward the fort, and she was very excited. I started to go out and she became hysterical, to some extent, and I quieted her and went back to the door, and while looking through the door, which is described as being a couple of blinds, shut, and a screen on the outside, I noticed a man going by on a horse—a white horse—and the best I could see, there was one walking alongside of him, and I recognized that it was Dominguez, who was one of the policemen there.

Q. The lieutenant of police?—A. Well, yes, sir; I believe he is.

Q. Proceed.—A. And the shooting was going on at the time; there was continuous shooting in the direction, you might say, of the fort, coming down from the fort toward the other part of town, toward Elizabeth street. I started to go out, and Mrs. Porter did not want me to and hung on to me in an excited way, and so I took her back and sat her down on a chair in the hall, and I came back to the door, and I said: "I guess everything is all over here; there is no danger here and there is no reason to be alarmed and you just keep quiet."

Q. What made you say that?—A. Because the shooting was in the

other part of the town at that time, up toward the hotel, about half a block from where we were. I got back to the door, and the shooting commenced on the side of our place over toward Thirteenth street. I face on Washington street.

Q. Right there, please just locate your house there on that map on the wall.—A. Let me see. This is Thirteenth street, and this is Eleventh street. I am up here [indicating].

By Senator FRAZIER:

Q. That is the alley going along where your stick is, here?—A. Here is Washington street, and here is my home, right up here. Here is Elizabeth street. That is right; I am right up in here [indicating].

By Senator WARNER:

Q. I see that is numbered there; that is marked "Mr. Porter's house."—A. Yes; that is right. There is a livery stable over on this corner here [indicating] that is not marked on this map.

Q. That is on the corner of Thirteenth and Washington streets—the livery stable?—A. Yes, sir.

Q. That is right. And right across Thirteenth street from your house—or, you are not on the corner?—A. There was shooting here [indicating].

Q. When you say "here," what do you mean?—A. When I came back to the door—I mean the first time, after seeing Dominguez go by—when I placed Mrs. Porter in a chair and came back to the door—

Q. That is, at the corner of Thirteenth and Washington streets, after you saw Dominguez go by?—A. Yes, sir; he passed by here and turned down Thirteenth street toward Elizabeth street.

Q. Yes.—A. The shooting commenced there, and Mrs. Porter became very much excited again, and she rushed up to me and said we were all going to be shot, and everything else, you know, and I said I guessed there was no danger, and after this volley had been fired here I heard the pumping of the guns and immediately afterwards a scuffle of feet—the shuffle of feet, you might say—and they evidently rushed over on this corner [indicating], and then there was another volley, and then there was a scuffle of feet, and it sounded to me as though they had gone around down this way [indicating].

Q. Down Thirteenth street?—A. Down Thirteenth street, toward Elizabeth street, again.

Q. Yes. Now, you say you told Mrs. Porter there was no danger. Was that your impression at the time?—A. My impression at the time was to tell her anything to keep her quiet. There was danger, naturally; but I thought at the time that the shooting was not in our immediate vicinity.

Q. You told her that when you saw the lieutenant of police go by?—A. Yes, sir.

Q. You say you heard a scuffling of feet. What do you mean by that?—A. A shuffling of feet, as though there was a rush of people. The walks there are made of brick, a kind of brick pavement, bricks laid into walks, and they are very uneven through the wear of a great many years, and not being replaced. People going along, of

course, make a shuffling sound, and they make a great deal more noise, of course, when they are in a hurry, and running.

Senator WARNER. Senator Lodge, will you kindly work the bolt of that gun back and forth?

(Senator Lodge here worked the breech bolt of the gun referred to a number of times back and forth.)

The WITNESS. That is the sound I heard, but it was a little more forcible than that. I suspect it is capable of making a large noise if you know how to work it. I do not know very well, but the noise was from a gun of this kind.

(The witness here operated the breech bolt of the gun.)

By Senator WARNER:

Q. Pulling it back and forth?—A. Pumping the gun, as I say.

(Senator Lodge again operated the breech bolt of the gun.)

By Senator WARNER:

Q. That was very distinct, was it?—A. Very distinct; yes, sir.

By Senator PETTUS:

Q. Where did that sound come from, which way?—A. The sound of the working of the guns came from the right as I was looking out on Washington street, which would place the shooting over about in front of the livery stable, on the corner.

By Senator WARNER:

Q. The corner of Thirteenth street?—A. And Washington street.

Q. And Washington street?—A. Yes, sir.

Q. What house is next to the livery stable there?—A. Mr. Starck lives in that house next to it, and I guess the next house to it—there are some sheds there that belong to the livery stable, but I do not think they extend right up to the corner.

Q. Mr. Starck and Mr. Tate live there—Mr. Tate lives within a few feet of Mr. Starck's house?—A. There is Mr. Starck's house, and then Mr. Tate lives in the next house. They are cottages.

Q. That is above, up toward Twelfth street on Washington street?—A. Yes, sir.

Q. Did you at that time form an impression as to who it was doing the shooting?—A. Yes; I believe I expressed myself to Mrs. Porter, when she told me about the shooting at first, that the negroes were out.

Q. That the negroes were out?—A. Yes, sir.

Q. What did you mean by saying that the negroes were out?—A. That the negroes were out of the fort; either fighting among themselves or charging the town.

Q. Why did you state that to Mrs. Porter?—A. Well, from the fact that I concluded that that was the only way that anything of the kind would occur, and there had been more or less talk of the negroes being unruly, and the probabilities were there would be trouble, and that kind of thing; the general talk of the town, you know.

By Senator OVERMAN:

Q. Did the working of the chambers of the guns impress you with the fact that they were soldiers also?—A. Yes, sir; it impressed me

as being a gun out of the ordinary. It was not a gun like the Winchester or anything of that kind that was used.

By Senator WARNER:

Q. You say there was talk that there might be trouble from the soldiers?—A. Yes, sir.

Q. Did you hear any threats at any time of any citizens against the soldiers?—A. No, sir; I can not say that I did; but there was considerable talk, you might say, that the negroes had had trouble with different people there and that there were threats made that they would get even, and so forth.

Q. Threats made by whom?—A. By the negroes, presumably. My information on that is only in a general way. I never took any personal interest in it, anything more than the general talk that one would naturally hear.

Q. You did not hear any of the threats; that is, what you heard?—A. Yes; just hearsay; what you hear by people talking, more or less.

Q. Did you go out that night?—A. No sir; I did not.

Q. Why not?—A. Well, I didn't go out from the fact that Mrs. Porter was hardly in a state to leave alone in the house.

Q. From the excitement?—A. From the excitement; yes, sir.

Q. You remained there with her?—A. I remained there in my home.

Q. Did you notice the next morning, as to the effect of that shooting, what houses had been fired into?—A. No; I can not say that I did note particularly; but the next morning my man who attended to the horses came in and told me—or, in other words, I went to the back of the house to open the kitchen to let the servants in, and the man that attended to the horses showed up about that time, and he said that the lieutenant of police had been shot and wounded and his horse killed and some one in one of the saloons had been shot and killed; and after I had breakfast I started down to my office, and I crossed over Thirteenth street to the opposite side, in front of the livery stable, and there were some people there—I do not know who they were; I do not remember now who they were—picking up shells, picking up empty cartridges at that point.

Q. That was where?—A. At the livery stable opposite, on Thirteenth street.

Q. On the corner of Thirteenth and Washington streets?—A. Yes, sir.

Q. That was where you had heard the pumping of the guns?—A. No, sir; the pumping of the guns was on the opposite side of the street; but I heard a volley from in front of the livery stable and also after they got across the street, and I made that remark the next morning, that that was where those shots came from. That is where I heard the shots, and from the corner of Thirteenth and Washington streets, opposite the livery stable, was about the line that they would shoot into Mr. Starck's house there. It is on a direct line, because I believe that the shots entered over by the windows, on the opposite side, which would be caticornered over from the corner by the livery stable.

Q. Did you examine the Starck house?—A. No, sir; I did not. There were a great many people examining, and I was in a hurry to get to the office.

Q. You saw parties picking up cartridges at that point?—A. Yes, sir. I do not remember who that was, now.

Senator SCOTT. Cartridges, or shells?

The WITNESS. Empty shells; yes, sir.

Senator WARNER. Shells; yes. Thank you. I said cartridges.

By Senator WARNER:

Q. You remarked at that time that was about where you heard the shooting?—A. I do not know whether I did at that time or not. I just stopped there, and they were picking them up, and some one had a shell and showed it to me. I was going to the office and didn't pay much attention to it that morning.

Q. You had no prejudice against colored soldiers?—A. None whatever, sir; none whatever.

By the CHAIRMAN:

Q. May I ask him a question right there, before I forget it? You say you heard some talk about the soldiers having trouble—having trouble with the soldiers. Was that before or after the soldiers came there?—A. No; it was after they came there. There had been some trouble between local people and the soldiers, I had heard.

The CHAIRMAN. That is all.

By Senator PETTUS:

Q. Did you see anyone while that firing was going on?—A. No, sir; I did not.

By Senator WARNER:

Q. You did not look out to see?—A. I did not look out to see. The only looking out I did was when I saw Dominguez go by, or the man on the horse. I was pretty busy taking care of Mrs. Porter along about that time.

Q. She was in an excited condition?—A. Yes, sir; in an excited condition.

Q. How many children were in your house?—A. I have two children.

Q. Were they awakened?—A. I did not know that they were, that night, but the next day my little girl was telling all about it. She was awakened, and was scared, and just stayed in the bed and said nothing at all until the next day, when she was telling about it.

Senator WARNER. Take the witness.

By Senator FORAKER:

Q. Mr. Porter, if I understand you, you were asleep when the firing commenced?—A. Yes, sir.

Q. You got awake, and the first thing you did was to locate the place, as nearly as you could, where the firing was occurring?—A. Yes, sir.

Q. And about where did you conclude the firing was taking place?—A. I concluded the firing was taking place down toward the post—what we call the post there—which, looking out on Washington street from my home, would be to my left.

Q. Then did it change its location?—A. No; the firing continued in that direction—from the left, you might say, down in front of us.

Q. Down toward the Miller Hotel?—A. Down toward the Miller Hotel.

Q. As though they were coming up the alley?—A. And at that time I made the remark to Mrs. Porter that I did not think there was any danger for us at all. I said "I do not think there is any danger here at all; the firing seems to be all over in that direction."

Q. Did it finally come down to the Miller Hotel, as nearly as you can recollect?—A. There was continuous firing down that way, and I could not tell.

Q. Had it reached the Miller Hotel before Dominguez passed you, or after he passed?—A. It was after he passed.

Q. After he passed?—A. That would be my impression.

Q. Did you notice where he went after he passed in front of your house?—A. He passed in front of the house and turned to the left.

Q. He turned to the left?—A. I saw him turn around the corner. I could just follow him that far, you might say, looking from this point. I have blinds on my house—shutter doors, as they are called—and then on the outside of that a wire screen.

Q. You had a wire screen?—A. Yes, sir; and by looking I could see that he went down that way.

Q. Could you see through that wire screen except when you looked straight out?—A. Yes, sir.

Q. Could you look slanting through it?—A. Yes, sir; you could look slanting and see the corner very well from where I stood.

Q. You could look slanting enough to see the corner, but you could not look through the wire screen over to that corner that I am pointing to [indicating on map]?—A. No, sir; you could not see that at all.

Q. Is it not a fact that when you look through a wire screen such as you had there you can see clearly and distinctly only when you look straight through it?—A. You could look and see distinctly when you looked straight through it; but you can also look off in a glancing direction and still see through it. You can look through it to a certain extent.

Q. How large a web was that?—A. I do not know exactly what the size is, but I could probably get an idea what the size of the web is by figuring.

Q. It is not material. You could see him down to Thirteenth street?—A. Yes, sir; and I could see after he crossed around that lamp-post there.

Q. You heard the firing after he passed around about the Miller Hotel?—A. Yes, sir.

Q. And then you heard firing later up in your locality?—A. Yes, sir—that is, when I went back to the door the second time—and Mrs. Porter became very excited then, and I was rather wrong in my impression that the firing was going to be done in some other part of the town altogether.

Q. You heard shots that appeared to be fired out of these rifles?—A. Yes, sir.

Q. Did you hear shots that appeared to be from any other kind of guns?—A. No, sir.

Q. Did you hear any pistol shots at all?—A. No, sir; I did not.

Q. Did you not hear a couple of pistol shots before the men who used the rifles came up and fired at the Starck house?—A. No, sir.

Q. If there had been a pistol shot fired from about the point I am

indicating, which, as I understand it, is where Mr. Bolack's place is [indicating on map], is that correct?—A. Mr. Bolack's; yes, sir; that is correct—right back of the Miller Hotel, there.

Q. Could you have heard that, if there had been a pistol shot there?—A. Yes; I suppose I could if I had—

Q. It is not more than 100 feet from your house, is it, to the point I am indicating?

Senator FRAZIER. "If you had" what?

A. I do not know the exact distance, but it is around the corner on Thirteenth street.

By Senator FORAKER:

Q. Then you could almost see that point, could you not—25 or 30 feet from Washington street on Thirteenth street?—A. Yes, I probably could.

Q. You could certainly hear a .45 caliber Colt revolver if it were to be fired at that spot, could you not?—A. Yes, if I happened to be in my home, in the front end, I probably could.

Q. You could hear it if it was fired at the corner, also, could you not?—A. Yes, sir.

Q. A witness has testified that he fired his revolver at that point, and then again at the corner—one of the policemen.—A. Yes, sir.

Q. You did not hear his shots at all?—A. No, sir; I did not.

Q. All you heard was simply the firing of the rifles?—A. Yes, sir.

Q. Is this the first time that you ever heard that a policeman did some firing there?—A. Yes, sir.

Q. It is the first time you ever heard it?—A. Yes, sir; it is the first time I ever heard it.

Q. And the only thing you have a recollection of is hearing the firing of these men on that corner?—A. Yes, sir.

Q. Can you tell us just where they were located? I do not know how to designate these corners. Were they on the corner diagonally across from your house?—A. I should judge that the firing I heard the second time I came to the door was right there [indicating on map]. There is the livery stable there, and I fixed it in my mind that that was where the firing was at that time.

Q. Where would the men be; not in the stable?—A. No, sir; they were out on the street, on the sidewalk, right there [indicating].

By Senator SCOTT:

Q. Where is "right there?" What corner is it?—A. On the corner of Thirteenth and Washington streets.

By Senator FORAKER:

Q. Thirteenth and Washington streets. On the northeast corner, as I suppose we would call it?—A. Yes, sir; I expect that would be the northeast corner.

Q. Have you any idea as to how many were there, firing?—A. No, sir; I have not any idea.

Q. Do you know what became of them after they got done firing?—A. There was a shot fired from that corner, and afterwards there was firing from this other corner [indicating].

Q. Which corner is that?

Senator OVERMAN. Bolack's corner.

By Senator FORAKER:

Q. This corner [indicating on map]?—A. No, sir; the other one [indicating on map].

Q. That would be the southwest corner?—A. Let us see. This is the northwest, and this is the southwest; yes, that would be the southwest.

Q. You heard firing there, and that was the last firing?—A. Yes, sir; that was the last firing I heard, and after that there was a scurrying of feet, and I judged whoever did the firing ran down Thirteenth street toward Elizabeth street, in front of what we call Lon Hill's place.

Q. What place?—A. Lon Hill's place. His house is located on the corner of Thirteenth and Washington streets, opposite the livery stable on the other corner.

Q. On the corner of Thirteenth and Elizabeth streets?—A. Yes, sir; right in there [indicating].

Q. That is the southeast corner?—A. Yes, sir.

Q. Bolack's place was here [indicating]?—A. No, sir; Bolack's place is on the other side of the street.

Q. This is Bolack's [indicating]?—A. Yes, sir. Bolack's occupies this part of the block here, you might say. That is vacant in there, now [indicating], and is used as a kind of garden.

Q. That is the block between Washington street and the alley, fronting on Thirteenth street?—A. Yes; and here is his solid store, right here, at the corner.

Q. Coming down to the alley immediately in rear of the Miller Hotel?—A. Yes, sir.

Q. This is a store building?—A. Yes, sir; that is a store building.

Q. How high is that building?—A. One story, I think.

Q. One story; but does it front on Thirteenth street and the alley?—A. It fronts on Thirteenth street, and I think it has a side door on the alley; but it fronts on Thirteenth street.

Q. Is it close up by the sidewalk?—A. Yes, sir.

Q. Clear down to the corner?—A. Yes, sir.

Q. And extending back on the alley?—A. Yes, sir.

Q. That is a one-story building?—A. Yes, sir.

Q. So that looking into the alley here on Thirteenth street, toward the fort, you have Bolack's store on one side and the Miller Hotel on the other?—A. Yes, sir.

Q. The Miller Hotel is how high there, on the alley?—A. Three stories.

Q. It comes out square?—A. It comes out square with the alley; yes, sir.

Q. How wide is that alley there; do you know?—A. I do not know. I should judge it was about 25 feet, or something of that kind.

Q. How much?—A. Twenty-five or 30 feet, probably, if it is that wide.

Q. I think we have that already. Now, Mr. Porter, did you see any of these men go down Washington street toward Twelfth street after the firing?—A. No, sir; I did not.

Q. What is your opinion as to whether or not they did go down there?—A. My opinion is that they went down Thirteenth street toward Elizabeth street. My impression is that they went down

Thirteenth street. The noise I heard I located as going down Thirteenth street.

Q. You located them as going that way?—A. Yes, sir.

By Senator OVERMAN:

Q. Some of them might have gone down the other street?—A. They might have gone down any street. That is just my surmise; from the noise that I heard I thought it was.

By Senator FORAKER:

Q. You were looking out at the time?—A. I do not know whether I was looking out at that time. Mrs. Porter was with me, and I was looking out and I was looking in. I was looking every way.

Q. But you were looking out through the wire screen?—A. Yes, sir; I looked out several times.

Q. Did you see the flashes of any guns?—A. No, sir.

Q. Reflected or otherwise?—A. No, sir; I do not think I did. I heard the noise.

Q. Then you did not see anybody at all?—A. Nobody but Dominguez passing and going around the corner.

Q. You recognized him on the white horse?—A. Yes, sir.

Q. And you recognized somebody walking with him?—A. In the street, over to his side.

Q. Was it one man or was it two men with him?—A. My impression was that it was one man with him—that I saw distinctly on this side, the side next to my house; and I was under the impression that there was another one.

Q. Did you recognize the man you did see?—A. No, sir; I could not.

Q. You testified on a former occasion that there were two, did you not?—A. I do not know but what I did. I could see one, and my impression was that there was another one on the other side of the street.

Q. You have a distinct impression that you saw one, and you might have seen another?—A. My impression was that there was one, and I am of the opinion that there was another one on the other side.

Q. How rapidly were they moving?—A. Very deliberately; slow; just in a walk. You can not even say in a fast walk.

Q. Were they talking?—A. Really, I do not know.

Q. And they continued in that slow, deliberate way until after they disappeared out of sight around the corner?—A. Down Thirteenth street; yes, sir.

Q. Did you see all three of them go out of sight?—A. No, sir; I just saw the horse with the rider go around the corner. I didn't see any of the others.

Q. Did you see where the man with Dominguez went?—A. No, sir.

Q. You do not know where he went?—A. No, sir.

Q. And if there were two of them you do not know where either of them went?—A. No, sir; I just saw Dominguez go around the corner on his horse.

Q. Senator Bulkeley calls my attention to your testimony as given before Mr. Purdy.—A. Yes, sir.

Q. You are reported here, at pages 110 and 111 of this book I am reading from, part 2 of Senate document No. 155, as saying this:

Q. You did not see the persons who were doing the shooting?—A. No, I could not distinguish them at all. We have a double-shutter door, and on the out-

side a wire screen, and in looking through it kind of sideways you could see nothing but something moving—except when I looked straight out and saw the man on the white horse and the two men walking alongside. I remarked to my wife then, and have since thought, that if there was any shooting outside that was a conspicuous place for a man to be—on a white horse.

That is correct, is it?—A. Yes, sir.

Q. Now, does that help you to remember whether there were two men or only one?—A. As I say, my impression was that there were two men, but I am not positive about it. I will not say. I know distinctly that there was one man, and I have the impression that there was another man on the other side of the street with him, but I can not say positively, and I expect my testimony should have shown the same thing. It was my desire to give that kind of testimony.

Q. In another place, on page 110 of the same volume, you say, speaking of the firing at that corner and of the men who did it—

I could not say where they came from, unless from the street back of the livery stable.

What street would that be?—A. That would be that alley. There is an alley back of the livery stable that runs down back of my home there.

Q. That would be between Washington and Adams streets?—A. Yes, sir; between Washington and Adams. Now, I heard no noise, nothing at all, no noise any place, excepting the firing out in front, until this firing started in front of the livery stable, and that was why I made the remark to Mrs. Porter, "I do not think there is any danger here; the firing seems to be all over the other way."

Q. Let me read further from this:

I can't say that I distinguished any flashes or anything of this sort; it was evident, though, that they were shooting toward the Miller Hotel.

A. Yes, sir.

Q. [Reading]:

In that direction, and after they had fired probably a volley or two there was another scurry of feet, and they rushed over here on the opposite corner, still on Washington street, firing again, and after they had discharged their arms there they rushed down toward the Miller Hotel, and I said to Mrs. Porter, "Well, they have gone away from here, anyhow."

That is correct, is it?—A. Yes, sir.

Q. So that you think when they were firing up here on the corner that they were firing toward the Miller Hotel?—A. From in front of the livery stable; yes, sir.

Q. Could they hit the Miller Hotel with Bolack's store where it is?—A. Oh, yes; they could hit the Miller Hotel all right.

Q. That is, the upper part of it?—A. Yes, sir; the upper stories.

Q. Shooting over the top of the store?—A. Yes, sir.

By Senator OVERMAN:

Q. Did you know where they were firing; whether they were firing at the Miller Hotel, or what direction they were firing?—A. No, sir.

By Senator FRAZIER:

Q. Could you tell whether they were firing into the Starck house from in front of the livery stable?—A. No, sir.

Q. But you did see shells picked up there the next morning?—A. Yes, sir.

Q. And the Starck house was shot into?—A. Yes, sir; the Starck house was shot into.

By Senator TALIAFERRO:

Q. Did you ever attend a drill while the troops were in Brownsville?—A. No, sir; I never attended a drill.

By Senator FORAKER:

Q. I want to ask you about that. It was your expression, I believe, that the soldiers had had some difficulty in town there?—A. Yes, sir.

Q. Had got into some trouble?—A. Yes, sir.

Q. Can you tell us what that trouble was?—A. Nothing more than I heard that one of them had been knocked down for running into some white ladies, and another had some trouble in a saloon, and just general remarks of that kind.

Q. Did you hear any remarks about getting even?—A. No, sir; I did not.

Q. You did not hear anything of that?—A. No, sir.

Q. And you did not hear any threats?—A. No, sir; no threats.

Q. Or any menaces of any kind?—A. No, sir.

Q. You did not hear of any meetings to consider what should be done with them?—A. No, sir; no, I did not. I never was called in any meetings, and I do not know anything about any meetings being held.

Q. Did you hear of any meetings being held by the citizens?—A. No; I do not know of anything of the kind.

Q. You were not invited into it?—A. No, sir; I was not invited into it.

Q. Now, you said the reports of these rifles did not sound like Winchester?—A. No, sir.

Q. Can you distinguish between the crack of a Krag and a Winchester and a Springfield?—A. Well, I do not know that I could tell the difference between a Springfield and a Winchester, but I think I could tell the difference between a Krag and a Winchester. I am familiar with the sound of the Winchester. I have been in Texas off and on for twenty years, and have done some hunting, and I have been on the frontier a great deal of my life, and one becomes familiar with the sound of a Winchester, handling that kind of an arm.

Q. You think this was a different sound from what a Winchester would make?—A. Yes, sir; the sound of the gun, the pumping of the gun especially, and also the firing. It is a high-charged bullet, and it is quick.

Q. But you can not tell whether it was a Krag-Jørgensen or a Springfield?—A. No, sir.

Q. You think it was not a Winchester?—A. I do not; no.

Q. You think it was not a Winchester, but it might have been either a Krag or a Springfield, so far as you know?—A. The only answer I can give to that is that this pumping of this gun which you have here makes the exact sound that I heard that night when those guns were being pumped at the side of my house. I do not know how it sounds when you load or unload a Springfield, or anything of the kind, but this sound is absolutely the same sound. I mean the sound of this gun that you just had here.

Q. That was a Krag gun that Senator Lodge used, and this was exactly the same thing, was it?—A. Yes, sir.

Senator OVERMAN. They both have the same action.

By Senator FORAKER:

Q. Do you know the Krag?—A. No; I don't know either one of those guns.

Q. Now, let me pump it [illustrating].—A. That is the stuff.

Q. That is "the stuff." That is the same thing, is it?—A. Yes, sir.

By Senator FRAZIER:

Q. Now try the other—the Springfield.

Senator HEMENWAY. The Springfield makes the same kind of a noise.

Senator FORAKER. This other gun which I now have is a carbine. That makes about the same noise, doesn't it?—A. Well, I hardly think it is as clear as the other in sound.

By Senator BULKELEY:

Q. In all the excitement of that few minutes do you think you could tell the difference between them?—A. Well, I don't know; I just simply recognized the sound of that gun when it was sounded there, and it was very quiet along about that time.

By Senator FORAKER [illustrating with the Springfield rifle]:

Q. Now, listen to this. Can you recognize the difference?—A. I don't know as I could—that and the other gun.

Q. In the nighttime, under such excitement as those, you would not be apt to detect the difference between shoving the bolt back and forth in a Krag and a Springfield, would you?—A. Well, no; I don't suppose I would. I was listening for sounds that night, and we heard the pumping of those guns; that is all.

Q. And the pumping of the gun was something like this?—A. Yes, sir.

Q. It is very much the same when a Winchester is worked, isn't it?—A. Well, I don't know; I hardly think so.

Q. We will bring one up here and see.

By Senator TALIAFERRO:

Q. How long have you lived in Brownsville?—A. I have lived there ever since a year ago, I think. I went there about the 1st of December a year ago.

Q. Do you know the lieutenant of police, Dominguez?—A. Well, I know him; yes, sir. I know him and knew him probably in a way ever since I have been there.

Q. How is the lieutenant of police in Brownsville appointed or elected—by the mayor?—A. I don't know. I guess he is appointed by the mayor. I don't know anything about the local politics. I have been too busy to know anything about any local affairs. I think he is appointed by the mayor.

Q. How long has he been lieutenant of police in Brownsville?—A. I could not say. He has been there ever since I have been there.

Q. Is he a popular sort of a man?—A. Yes, sir; he is considered a very good man. He is a good Mexican, a good man.

Q. He was in the Government service, was he not, before he was made lieutenant of police?—A. Well, I don't know.

Q. Do you know his general reputation?—A. I know his reputation there in Brownsville.

Q. Is he considered a good officer?—A. Considered a good officer, a good man.

Q. Generally thought well of and liked by the people?—A. Yes, sir; and he is an exceptionally good Mexican. There is no doubt about that.

By Senator WARNER:

Q. Mr. Porter, you say your wife was very much excited at that time and hysterical?—A. Yes, sir.

Q. So that you did not give much attention to looking out on the street?—A. No, sir.

Q. But when you did look out you saw the lieutenant of police pass by?—A. Yes, sir.

Q. And in that excitement there you would not pretend to say whether two pistol shots or more were fired from across the street?—A. No, sir; I would not.

Q. They might have been without your having heard them?—A. They might have been. You understand that between the time that Dominguez passed by on his horse I took Mrs. Porter back into the hall and set her down and talked to her and reasoned with her—tried to quiet her as much as I could and got her to sit down—and she seemed to feel that there was no further trouble there. I explained to her that I thought the shooting was in the other part of town; that there was no danger in that immediate vicinity, and so forth, talking to her; and after I got her quieted I again went to the door, and about the time when I got to the door was when this second firing started in right at our right, and then she came charging forward again, and my time was very much occupied in taking care of her after that.

Q. So I say, in the midst of this shooting going on there you would not pretend to say whether two pistol shots were fired there or not?—A. No, sir.

Q. Nor do you know in what direction the soldiers went when they left Thirteenth street and Washington, the corner?—A. Nothing more than my impression was that they rushed down Thirteenth street toward Elizabeth.

Q. How about the firing then?—A. I can not say how many volleys there were—seemingly a volley fired in front of the livery stable, and they rushed across the street. My impression was they were firing from that corner, and then there was a scurrying, and then they were off again.

By Senator LODGE:

Q. I wanted to ask one question. You say you saw the picking up of these shells?—A. Yes, sir; there were some people gathered on the corner.

Q. Gathered on the corner in the morning, picking up those shells?—A. Yes, sir.

Q. I don't remember, but I think you said some one showed you one of the shells.—A. Yes, sir; I believe they did.

Q. What kind of a shell was it?—A. Well, I didn't pay any attention about it at all any more than it was a rifle shell.

Q. It was a rifle shell?—A. Yes, sir; a rifle shell of some kind. I don't know what it was.

Q. It might have been a Winchester shell?—A. I really could not tell anything about what it was; anything more than it was a shell.

Q. A rifle shell?—A. Yes, sir. I was hurrying down to the office.

By Senator TALIAFERRO:

Q. You would have known if it was a Winchester shell, I understood you to say.—A. I would if I had looked at it particularly, but I did not look at it any more than they had shells in their hands and said, "Here are some shells that were picked up," and some remark was made. I never stopped there. I went right along.

By Senator BULKELEY:

Q. How far is it from your house to Twelfth street—about how far, in feet?—A. Those blocks are pretty long blocks in there.

Q. Three hundred feet?—A. I should judge so—pretty long blocks in there; that is on Twelfth street you know. You are speaking of between Thirteenth and Twelfth?

Q. Yes.—A. Yes, sir.

Q. Now, this shuffling of feet that you heard when the soldiers disappeared, when you thought they were going away, if it had been on Twelfth street could you have heard that down at your house?—A. No; I don't think so.

Q. So in that way you identify the soldiers as disappearing down Thirteenth?—A. Yes, sir.

Q. That is, you do not think you would have heard the noise on Twelfth street at all?—A. No, sir.

Q. If it had been on Eleventh street you would not, positively?—A. No, sir; positively not.

Q. And your first impression was that the soldiers—A. My impression was that the noise was right on Thirteenth street.

Q. These scurrying feet?—A. Yes, sir; these scurrying feet. To explain that more fully, along in front of Lon Hill's corner, as we call it, there is a brick house, and there is an old sidewalk that has been laid there with brick for quite a number of years evidently, and it is a sand brick that they make there—

By Senator WARNER:

Q. That is at the corner of Thirteenth and Washington streets?—A. Yes, sir; and the bricks are some of them worn, worn in the center or worn on the edges, and all kinds of sizes, and in walking over it a man has got to be a high stepper to go along there and not make very much noise, and that probably brought about the noise more than anything else—that sound of scurrying.

By Senator BULKELEY:

Q. But is it your impression that those troops did not go any farther up Washington street, and went back down Thirteenth?—A. My impression is that the people that shot on that corner went down toward Elizabeth street. That is where I located the noise—as going that way.

By Senator FRAZIER:

Q. You spoke of Mr. Bolack's house or store as being on Thirteenth and the corner of the alley?—A. Yes, sir.

Q. And extending back to the alley?—A. Yes, sir.

Q. Did that house cover the entire space between the alley and Washington street along Thirteenth?—A. No; let me show you.

The CHAIRMAN. Let the witness go and describe it on the map.

A. [Indicating on the map.] Bolack's store is on this corner. Now, what do you want to know?

By Senator FRAZIER:

Q. I want to know whether Bolack's store covers the entire space between the alley and Washington street on Thirteenth.—A. No, sir.

Q. How far up from the alley does it extend?—A. I should judge it covers probably three-quarters of the block.

Q. That is, three-quarters of the distance from the alley toward Washington street?—A. Yes, sir.

Q. What is on the corner of Washington street and Thirteenth, then?—A. There is nothing there except a garden. There is a grape arbor in there.

Q. Is there no house at all?—A. No house at all.

Q. And the store extends from the alley along Thirteenth street up perhaps how many feet?—A. Three-quarters of the way to the corner.

Q. Three-quarters of the way?—A. Yes, sir.

Q. If the entire distance is 120 feet, then it would extend three-quarters of that?—A. Three-quarters of that; his store fronts on Thirteenth street.

By Senator BULKELEY:

Q. I see in your testimony that you say you stayed in the house, you went to bed, were not much disturbed, and went to sleep. How long after the shooting was over did that happen?—A. Well, I expect probably twenty-five or thirty minutes after the shooting was over.

Q. Practically right after?—A. Yes, sir; right after the shooting was over I went to bed. I had to get up at 5 o'clock in the morning.

Q. You had no great uneasiness about the condition of things there in the city?—A. No.

Q. Not enough to disturb your slumbers?—A. No, sir. It takes a whole lot to disturb my slumbers.

By Senator FRAZIER:

Q. At what point in Mr. Bolack's house is the doorway, as it fronts on Thirteenth street—about the middle of the house or at either side?—A. He lives in the house, as well as having his store in the house. My impression and my memory is that he has a window in this side, and then there is a hall. His entrance to his residence part of the building is in through here [indicating]. His store doors are here [indicating].

Q. About how far from the corner of the alley is the door to his store?—A. He has doors all the way along here when they are opened up. There are three or four doors, from the alley along, that he throws open.

Q. Is there a recess, a door setting back from the front of the building slightly?—A. That is the entrance into his residence portion of the building.

Q. There are several doors along there?—A. There are several doors here; yes, sir; and I remember that there is a door here that comes out on the alley from the side.

By Senator FORAKER:

Q. Now, I have got to get something straightened out. On which side of that street is Mr. Bolack's place, as you go from Washington street down toward the Miller Hotel?—A. It is on this side [indicating].

Q. On the left-hand side going down?—A. Yes, sir.

Q. What is immediately beside Bolack's place?—A. Lon Hill has a place. There are several buildings. I don't know who owns those buildings, except Lon Hill is on the corner.

Q. What kind of a place is that?—A. Lon Hill's is a one-story building.

Q. What business is carried on there?—A. At that time I think probably it was closed up—was not open at all; he had it closed up. Now he has a real-estate business there. Then there is a building right beside Bolack's, as I remember, right beside his two-story building, or the corner, there is a little building, a one-story building, if I remember right.

By Senator OVERMAN:

Q. Where is King's place?—A. The King Building?

Q. Yes.—A. That is on the corner, right opposite the Miller Hotel.

Q. Where is the "Hat" store?

Senator FRAZIER. The Hat corner, a place with a sign of a hat or something like that.—A. I don't remember any such description as that. King's building is a two-story building. That is on the corner.

By Senator WARNER:

Q. Is there a jewelry store in there?—A. No.

Q. Is that the corner of the alley and Thirteenth?—A. No; that is the corner of Thirteenth and Elizabeth. Judge Wells has his office up over it—a lawyer's office.

Q. That is right across the street from Bolack's?—A. No; right across from the Miller Hotel. There is an alley, and Bolack's is on the other side of the alley.

By Senator FORAKER:

Q. Now, I will ask you where the house is that is called the "House of the Sombrero," or the hat house.—A. Well, I don't know.

Q. That is not Mr. Bolack's place, but on the opposite side of the street, as we get the impression.—A. They name a great many of their houses and stores down there. They give them names.

Q. A witness whom we had here yesterday said there is a silversmith's shop there now. This is the testimony:

Q. In what building was that doorway?—A. In what we call the "House of the Sombrero." There is a silversmith's shop there now.

Q. Where was Bolack's place?—A. Here it is [indicating].

Q. On the other side of Thirteenth street from the Sombrero House?—A. Mr. Bolack's house is here between Thirteenth and Fourteenth and the Sombrero House is here between Thirteenth and Twelfth.

Can you tell from that what house it was?—A. No; I don't know the Sombrero House.

Q. I will read further:

Q. What is on the other side?—A. Between Washington street and this alley is the House of the Sombrero. At one time there was a hat store there, and that is why they call it that.

A. Does it say whether it is a two-story building? There is a two-story building.

Q. He does not say about that. He said he stood in the doorway of it. Do you remember whether there is a building on the north side of Thirteenth street, just below Washington, that has a doorway in it in which a man could stand?—A. I could not say about that. It is filled in with buildings all the way through. It is a block of buildings.

TESTIMONY OF CHARLES E. HAMMOND.

CHARLES E. HAMMOND, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Your name in full is Charles E. Hammond?—A. Yes, sir.

Q. Where is your home?—A. At San Antonio, Tex., at present, sir.

Q. What is your age?—A. About 47.

Q. Are you a native of Texas?—A. Of Illinois.

Q. What part of Illinois?—A. Sixty miles east of St. Louis and 100 miles north of Cairo.

Q. When did you go to Texas?—A. In 1890.

Q. What is your business?—A. Real estate, at present.

Q. Were you in Brownsville on the night of the 13th of August of last year, at the time of what we speak of as the shooting up of the town?—A. I was, sir.

Q. Where were you stopping then?—A. At the Miller Hotel.

Q. That is marked No. 5 there on that map. Do you see it?—A. Yes, sir.

Q. That is at the corner of Elizabeth street?—A. Elizabeth and Thirteenth.

Q. Yes?—A. Yes, sir.

Q. How long had you been in Brownsville?—A. I had just gotten in that evening on the evening train.

Q. Where were you at the time you first heard firing?—A. I was sitting in front of the hotel. There is a porch out in front. This diagram represents the main building, and then there is a porch out in front—about an 8 or 9 foot porch.

Q. That is on Elizabeth street?—A. Yes, sir; and then farther on out is a brick pavement. I was sitting on the brick pavement, with my feet up on one of the posts.

Q. Through the center of the house there is a large courtway?—A. Yes, sir; the house is built in the old Mexican style—a large court down through the center.

Q. Where was the firing you first heard—in what direction as to the fort?—A. As nearly as I could locate it, it was at the mouth of the alley, where the alley runs into the post property; at the foot of the alley.

Q. That is the alley between Elizabeth and Washington streets?—A. Yes, sir.

Q. And as that shooting continued, which way did it come up into the town—that is, from the mouth of the alley, up toward Thirteenth or Fourteenth?—A. First there were two or three shots. Then there was a volley, and then immediately afterwards the bugle commenced

to blow. Then immediately following that bugle call there was a volley fired down Elizabeth street.

Q. Whereabouts on Elizabeth street, as nearly as you could determine from the sound—that is, your judgment?—A. Well, we were sitting right here. The King Building is on this corner.

Q. The King Building is on the opposite corner, across Thirteenth street, from the Miller Hotel?—A. Yes, sir; and the second volley of shots was fired from the mouth of this street, or from the inside of the post; I could not tell which. Now, just beyond the Miller Hotel, just about here [indicating] is Doctor Thorn's residence.

Q. Doctor Thorn's residence, then, fronts on Elizabeth street?—A. Yes, sir; and his residence faces clear out to the street. There is no veranda in front at all; and the second volley of shots was necessarily fired from this side of the street [indicating], because they went over our heads and struck the street. Two or three bullets struck the street here, and one struck the King Building just about here [indicating]. Then the firing ceased here and it moved over toward the alley on Washington street.

Q. And came up town?—A. Yes, sir; because the second volley was very preceptible. We could hear the whiz of the bullets very perceptibly, and could hear them strike the street and that building, and that is when we got up and moved in.

Senator OVERMAN. It was time for retiring!

By Senator WARNER:

Q. You moved in where?—A. Into the hotel; got out of the range of those bullets.

Q. When you speak of a volley, what do you mean by that?—A. Well, a dozen or more shots. I don't know whether there were 10, 15, or 20; it was a volley.

Q. Just tell what occurred then—what you did and what occurred—in your own way.—A. When the first shots were fired, the first three or four shots, and then the volley, this young fellow Mikesell that I was talking to, he remarked, "What is that?" I said "That is just some drunken niggers down at the post." He said, "How do you know?" I said, "That is the crack of a Krag," and then this volley was fired down Elizabeth street and we heard those bullets and I remarked, "We had better get up and go in the house, because those fellows are shooting down Elizabeth street." We walked into the hotel, and on the south wall of the building there was a Western Union clock, and as we walked in I glanced up at the clock and it was nine minutes to 12, and I remarked that we were sitting up a good deal later than I thought. There was a desk under the clock, and we walked up to that and continued our conversation. He had asked me relative to our school laws, and I was explaining our school laws as we sat together. I did not realize, and neither did he, that there was any danger, for we had gotten out of the range of the bullets. We sat under the clock and continued our conversation for probably a minute or two. The shots were still going on, but seemed to be down—farther down toward the mouth of the alley—quite a little way off from us, but in the course of two or three minutes the firing then began back of the hotel.

Q. That is, back of the Miller Hotel?—A. Of the Miller Hotel; yes, sir.

Q. When you say back of the hotel, what do you mean?—A. I mean in the alley in the rear of the hotel, and there were two or three volleys back there—quite a continued shooting—and I remarked to him, “Those fellows have kicked in the back gate and are firing down this court.”

Q. That is, the court of the hotel?—A. Yes, sir; and I said, “We had better get out of the light and get in the dark.” So we stepped back into the wash room, which was immediately back of the office. We stood there probably a minute, and he said, “I am going to bed.” I said, “Mikeshell, you are taking a good deal of a chance in going out.” He had to go across the court to get upstairs, to go to bed. I said, “You have got to cross that court and it is dangerous. You had better not go.” He said, “I am going, anyhow,” and he went out through the window and left, and I have not seen him since. I stood there a little while—a minute or two—and then the shooting began around on Thirteenth street, on the Thirteenth street side of the hotel.

Then it sounded as if it was all around me, down in the court and in the alley and on the Thirteenth street side. About that time the night clerk came down, and he went behind the counter and got a Winchester shotgun out and began to put it together, and I walked out then to where he was, and he loaded his gun, and he said, “We had better go back into the sample room. It is safer back in there than it is here,” and he said, “I believe those fellows are going to raid the hotel. I will set the gun down just inside the door, and if they break in, the first one that gets to the gun, let him have it, we will get some of them;” and he and I stepped inside the sample room. It was dark there. There was an acetylene lamp burning in the office. We stepped to a window on the Thirteenth street side. The office is here [indicating], and on back there it is probably about 20 feet.

Q. That is in the front of the hotel and in the corner?—A. Yes, sir; right in this corner. Immediately back of the office a wood partition runs across. Here is a window. We stepped back into the sample room, and in this corner, right up next to the window; just beyond the window there is a door.

Q. That window opens out on to Thirteenth street?—A. Yes, sir; just beyond that there is a door. I stepped in this door.

Q. You mean just as you went up toward the alley from the window?—A. Yes, sir; toward the alley from the window is a door. The shooting then seemed to be all around the hotel. Well, while I stood in that corner I heard a horse go by, a man go by on horseback, and I heard a nigger say “There goes the son of a bitch. Let him have it.”

Q. You say son of a bitch. What did he say?—A. He said, “There goes the son of a bitch, let him have it,” and I heard muffled conversation, and I don’t know whether I could see every shot, but I could see the flashes of the guns through the crack of the window and under the door. I stood in that corner, and while I was there I heard the town clock strike 12, and after the firing had ceased I walked back into the office, and it was 5 minutes after 12.

Q. You say you heard a negro use the expression, the words that you have given, which I do not care to repeat?—A. Yes, sir.

Q. How did you know that?—A. Well, I know it was a nigger, just the same as if it had been a Dutchman I would know it was a

Dutchman, and if it had been a Mexican I would have known it was a Mexican.

Q. That is, if it had been a Dutchman and he spoke broken English?—A. Yes, sir; broken English—that is what I mean.

Q. And the dialect you took from the sound of the voice?—A. Yes, sir; the dialect.

Q. At that time did you form an opinion, a conclusive opinion, as to who those were that were doing the shooting, whether negroes or white men?—A. Why, I knew it was—I knew in reason—I had no idea of anything else but what it was the soldiers from the post, and from the language, from the conversation that I heard out there, there was no doubt in my mind but what it was the nigger troops.

Q. You had no doubt then?—A. No, sir; and I have not had any since?

Q. Now, when you said "the sound of a Krag," did you mean to distinguish that it was a Krag and not a Springfield?—A. I mean by its being a Krag that it was a high-pressure bullet. I was in Brownsville off and on—occasionally went down to the post to see a game of ball, but never paid any attention and did not know whether the troops used a Krag or a Springfield or what they did use, but what I meant was that it was a high-pressure bullet; it was not a six-shooter.

By Senator PETTUS:

Q. What was the expression which you repeated?—A. When he asked me what that was?

Q. No; you said you heard some one exclaim in the street.—A. Oh, I heard a nigger's voice say, "There goes the son of a bitch; let him have it."

By Senator WARNER:

Q. What experience have you had, if any, in handling firearms?—A. I was raised in the hardware business. My father was in the hardware business at Ashley, Ill., from 1863 to 1904, and I spent my entire life in the hardware business up until the last six years. I hunted a great deal; in fact, I went to Texas on account of my health, and I spent a good part of my time hunting, and I have handled both black powder and white powder—hunted with both.

Q. You say your father was in the hardware business. In connection with that business—A. We handled all kinds of firearms and cartridges, of course.

Q. Where was that place of business?—A. Ashley, Ill.

Q. Now, after you had gone back into the sample room—I suppose that was a wet sample room?—A. No; it was not a wet sample room, Senator. It was a room where the drummers displayed their samples. If it had been a wet sample room it would have had a light in it, and I would not have gone in there.

Q. Well, you remained there how long?—A. I remained there from the time I went in until five minutes after 12. I should say—of course it is guesswork as to the length of time that I was in the office—but I should say from the time I went in the office until I went in the sample room was possibly four minutes; three or four minutes.

Q. You remained there until the firing had ceased?—A. The firing had all ceased.

Q. Then where did you go?—A. I walked into the office, and then right out from the office into the court, and upstairs.

Q. To your room?—A. Yes, sir.

Q. And your room was on what floor?—A. On the third floor.

Q. Who was it that had a room opposite you on the third floor?—A. Mr. Chase, a locomotive engineer.

Q. Was he there that night?—A. Yes, sir.

Q. Did you go into Mr. Chase's room?—A. Yes, sir.

Q. I will get you to state if you made any remark there at the time to Mr. Chase as to who it was doing the shooting?—A. I did. I went into Mr. Chase's room, and Chase said, "This is pretty tough?" and I said, "Yes." He said, "Is anybody killed?" I said, "Not that I know anything about. I think it is just the soldiers from the post are shooting up the town. I don't think they have been trying to kill anybody." I did not realize then that there was any danger, that anybody was hurt: and then the little Mexican office boy came to my room, and he said, "There are three or four dead men out on the street." He took me down to the end of the hall where there was a window looked out on Elizabeth street, and he pointed them out. He said, "Don't you see them lying over there?" I told him, "That is just the shadows of the posts." There are some posts along on the street. He said, "Yes, but there is the lieutenant's horse, and there is the lieutenant of police," and I then raised the window and looked out across the street and saw the lieutenant's horse lying out there, or saw a white horse lying out there, and the next morning I saw that it was the lieutenant's horse.

Q. Where was that horse lying, with reference to the Miller Hotel?—A. Diagonally across, in front of Riford & Bistera's place, diagonally across the street.

By Senator BULKELEY:

Q. On Fourteenth street?—A. No, sir; on Elizabeth street, right about here where this star is.

By Senator WARNER:

Q. You have no prejudice against colored troops?—A. Not a bit in the world, sir. I have got a nigger working for me now, bossing 50 or 60 Mexicans.

Senator WARNER. Take the witness.

By Senator FORAKER:

Q. How long had it been before this night when you were last in Brownsville?—A. I don't remember. My business is not in Brownsville. My business is up the river from Brownsville about 30 miles, and I do my banking business in Brownsville, and I am in and out of there quite a good deal. I don't remember how long it had been, but I think it had been as much as three or four weeks.

Q. Three or four weeks?—A. I think so. I am not positive.

Q. Had you been in Brownsville at all since the arrival of these colored troops?—A. Yes, sir; several times.

Q. You had been?—A. Yes, sir.

Q. The troops had been there only two weeks.—A. Well, then, I had been there oftener than I thought, because I remember being in Brownsville and seeing them on the street.

Q. You saw them on the street?—A. Yes, sir.

Q. You stated awhile ago that when you heard this voice using this epithet, which I do not care to repeat, you recognized at once that they were negroes?—A. Yes, sir.

Q. You could not be mistaken about that?—A. I don't think I could, sir.

Q. And then you said in answer to Senator Warner's question that you had no doubt whatever about their being the colored soldiers at that time?—A. Yes, sir.

Q. From that remark?—A. No; I did not say from that remark.

Q. You said it in that connection. Did you have reference to that remark, or what did you have reference to?—A. No; because of the fact of where the firing commenced and the amount of volleys. Now I know, Senator, that the Mexicans do not own firearms. I have at least 500 Mexicans on my place, and I do not believe there are as many as two guns in the whole number.

Q. Well, we will call for that directly. If you will just content yourself with answering my questions.—A. All right, sir.

Q. We will make more progress.—A. Yes, sir.

Q. You said you had no doubt then and you have no doubt now?—A. No, sir.

Q. You never did have any doubt, did you?—A. That it was nigger troops?

Q. That it was colored soldiers who did the firing?—A. Not a bit in the world.

Q. You knew it from the minute you heard the guns fired?—A. I knew it as well as I know it now.

Q. Didn't you know it so well that you remarked to the companion with whom you were talking "That is a lot of those drunken negro soldiers shooting up the town?"—A. Yes, sir.

Q. And that was at the very first shot?—A. Yes, sir.

Q. That was what came into your mind?—A. No; it was not at the first shot; it was after the volley.

Q. The first shots?—A. Yes, sir.

Q. The first remark you made?—A. Yes, sir; involuntarily.

Q. At that time when you made that remark you had not seen anybody?—A. No.

Q. No shooting had occurred round about you?—A. No, sir.

Q. And the shots had not yet been fired down Elizabeth street?—A. No, sir.

Q. Just the shots that you think were fired at the mouth of the alley?—A. Well, they sounded as if they were at the mouth of the alley, or they might have been inside the barrack walls; somewhere down in that neighborhood.

Q. Had you seen any drunkenness on the part of these negroes?—A. I had seen some drunken nigger soldiers; yes, sir.

Q. When and where did you see any drunken negro soldiers?—A. I saw them pass by the Miller Hotel.

Q. When?—A. While I was there. I don't remember the date.

Q. How many had you seen?—A. I had seen several. I don't know the number, sir. I saw the same thing with the white troops.

Q. Tell us about how many of those drunken negro soldiers you saw.—A. I kept no account. I may have seen as many as a dozen, I may have seen as few as a half dozen, I may have seen 20.

Q. How were they conducting themselves?—A. Like all other drunken men.

Q. How was that? What did you see?—A. Staggering down the street, one or two holding the balance up; staggering down toward the post, one or two holding some of the others up.

Q. You saw that going on?—A. Yes, sir; I did.

Q. You can not tell us at what time, however?—A. I can not; no, sir.

Q. But you saw that how often?—A. I think as many as two or three times.

Q. Then you think during the time those negro soldiers were there you had been in the town as often as three or four times?—A. No, sir; I don't think that. As I said, my business took me in there, and when I got in there, sometimes I would be there two or three days, sometimes only a day, sometimes as much as a week.

Q. What is your business?—A. Real estate—that is, developing. I buy lands and put in pumping plants and canals, and cut the land up and sell it out to actual settlers.

Q. And you have no prejudice against the negro at all?—A. Not a bit in the world, sir.

Q. And as an evidence of that you state that you have a negro in your employment.—A. No, sir; I had just as soon have a Mexican or a white man. I employed him because he filled the place. He is what we call a top man, and he was the man I wanted for the place, and I employed him, the same as I would employ anybody else who could do the work.

Q. Going back to where we were, you did not have to wait for this remark that you heard about the shooting?—A. No, sir.

Q. You knew they were negro soldiers doing the shooting?—A. I thought so.

Senator FORAKER. That is all.

By Senator BURKELEY:

Q. What did you state was your first impression when you first heard the firing?—A. Why, I thought it was just a lot of drunken troops down inside the post.

Q. Have you testified before in regard to this?—A. I don't remember, sir. I testified before Mr. Purdy very hurriedly.

Q. Did you testify as to what your opinion was after the first firing?—A. Why, I testified that after the first volley, when Mike-shell asked me what it was, that I said it was a lot of drunken soldiers firing down at the post—something to that effect.

Q. Did you read your testimony over before you swore to it?—A. I have read the testimony over one time; yes, sir.

Q. Did you say this—

Senator LODGE. One moment. I ask to have the record of his testimony read, showing what he said.

Senator BURKELEY. If you will be kind enough to let me get through with my question, then I will let you put in your question.

Senator LODGE. I think if the former testimony of the witness is to be read in order to contradict his present testimony, it should be read entire.

Senator BURKELEY. I have no objection to its being put in.

Senator PETTUS. Mr. Chairman, when a witness is asked about a

writing of his, or that he signed, he has a right to see the writing before he is required to answer at all.

The CHAIRMAN. The Senator is correct, and I would ask that it may be put before him, and then he can reply.

Senator FORAKER. Mr. Chairman, I submit that when a Senator has this witness in charge and is examining him he should be allowed to continue until he gets through, without an enforced interruption.

Senator LODGE. We may as well discuss this thing now as at any time.

The CHAIRMAN. I want to say that the Senator from Alabama is perfectly correct, in my opinion—that any witness who is asked what he has testified to has a right to have the testimony before him before answering.

Senator LODGE. That is all I ask.

The CHAIRMAN. Now, I suggest that the testimony be put before him, and then that the Senator from Connecticut, who has the witness under examination, may proceed without interruption.

Senator FORAKER. While this is an important matter, it is not a matter for us to have any difference about at all. It can not be possible that we will have any difference of opinion about this.

The CHAIRMAN. I do not think we have any.

Senator FORAKER. Here is a witness who has given testimony on another occasion, testimony that may cover 2 pages in this instance: in another instance the testimony of another witness may cover 50 pages. Now, as I understand it, what the Senator from Connecticut wanted to ask this witness was whether he had not made a certain statement—which he was proceeding to read to him—on another occasion. It is not necessary to put the whole of that man's deposition, given at that time, in evidence. If anybody wants to put it in, of course he can. It is already in the testimony before us, and we certainly will not establish a rule by which we will be required to read the whole of a man's testimony before we can ask a question as to whether or not he had made any different statement at some other time. I do not suppose that is intended.

The CHAIRMAN. The Chair does not propose that. The Chair proposes—subject, of course, to any suggestions of the Senators—that it would be more correct and proper to let the witness have an opportunity to inspect the portion of his testimony that is at issue, so that he may see the entire question and the entire answer, and, possibly, the preceding one. That was my idea.

Senator FORAKER. That is entirely right.

Senator BULKELEY. That is what I propose to do.

Senator LODGE. That is exactly what I want, Mr. Chairman, and I want the testimony that the witness gave on the point about which he was asked. He was asked what he said after he heard the first volley, and I want what he said after he heard the first volley, what he testified to on page 65, at the bottom of the page. I want that read, because that is the answer to the question.

Senator BULKELEY. That is what I want to have.

The CHAIRMAN. I think there are no differences between Senators on this point.

Senator BULKELEY. I think there is a difference.

The CHAIRMAN. Only I suggest this, that when a witness is before a good many questioners he is under some embarrassment naturally, or possibly.

Senator BULKELEY. He ought not to be.

The CHAIRMAN. And that he should have the privilege of reading the question and answer himself that he has previously given and that he may have such time as he desires.

The WITNESS. I will waive all that.

Senator LODGE. The question is on page 65, and the answer begins on page 65 and continues through the whole of page 66, and if the answer is to be read let it be read from the point where it begins and not from the middle of page 66. That is the point I make.

Senator BULKELEY. All I want to ask is what he said at the time of the first firing, and this is his answer. Shall I read it myself? I think I have that privilege.

The CHAIRMAN. If he prefers to read it, then let him read it, or, if he waives it, then you read it.

The WITNESS. I waive that.

Senator OVERMAN. Where are you going to read?

Senator BULKELEY. Page 66, about the middle of the page.

From the time of the first firing I did not know there was any danger. I thought it was a sort of cowboy shooting-up affair, but when the firing continued——

You thought that it must be a serious affair. Did you say that?—

A. I did.

Senator LODGE. He has said that to-day.

Senator BULKELEY. He has not said so.

Senator LODGE. Now, I want the first part.

Senator BULKELEY. Who is examining this witness? You can have him as soon as I conclude; when I get through.

Senator WARNER. Will the Senator pardon me a moment?

Senator BULKELEY. Surely.

Senator WARNER. I do not think there should be any difference of opinion, but that is subsequent to what is on page 65.

Senator BULKELEY. I will go back to page 65.

Senator WARNER. I don't know that I have any serious objection to the way that the question is being put; but upon looking at this answer I see it is a very long one and covers a page, and the part quoted by the Senator is near the middle of it.

Senator LODGE. I make the point that if the witness is to be referred to his previous testimony, his entire answer should be read, and not a fragment out of the middle of it.

Senator BULKELEY. I make the point that ever since this examination of witnesses has begun parts of the testimony of witnesses in other proceedings and before other parties have been called to their attention without any objection.

Senator OVERMAN. Not in cases like this, Senator, where the whole answer relates to the same transaction.

Senator LODGE. Not in cases like this.

Senator BULKELEY. Yes; over and over again.

Senator FORAKER. Where the witness gives his answer, and it re-

lates to a number of subjects, it is not necessary to read it all, and I do not think this witness has any special need of a guardian.

Senator LODGE. The witness is perfectly capable of taking care of himself, but my objection is to the method of conducting the examination.

Senator BULKELEY. I will try to take care of the witness as well as of myself.

Senator FORAKER. I think the method is all right and proper. We have followed it from the beginning.

The CHAIRMAN. Now, if the committee will permit the Chair, there is not a bit of misunderstanding, in my opinion; but the Chair will insist, if supported by the committee, on all occasions, that when evidence is referred to in that way, given by a witness on a previous occasion, that the witness shall have the privilege of reading the entire question and answer, if he wishes, or he can waive it if he wishes; and if a part is taken out, and the question is asked and answered, then it certainly will be the privilege of any Senator present to have the whole question and the whole answer read.

Senator BULKELEY. I will ask to have it all put in when I am through. Now, I will ask this witness, Was that opinion based on your reply to this question:

What experience have you had with firearms?

which you answered by saying, among other things:

I have been in towns where cowboys would come in periodically and shoot up the place.

A. My opinion of that shooting, when it began down there, was that those fellows had gotten hold of some whisky and were just out shooting—

Q. What fellows?—A. Those troops; and were just out shooting, like the cowboys used to come in, in west Texas, and shoot to hear their guns pop, and that there was no particular danger in the matter. I never heard of anybody being killed by a lot of drunken cowboys.

Q. I don't know. I have never had any experience.—A. Well, I have, and they just come in and shoot, to get the sheriff after them, and then outrun him.

Q. That was what you formed your opinion from—your experience—was it?—A. Yes, sir.

Q. That it was a kind of cowboy scrape?—A. Yes, sir.

Q. Now, in order that my friend from Massachusetts may be satisfied, I call your attention to that part where you stated, in reply to a question, that you presumed it was some drunken soldiers shooting down at the post.—A. Yes, sir.

Q. You said:

I told him that I presumed it was some drunken soldiers shooting down at the post, and he said, "Why do you think that?" and I said, "Because that is the sound of a Krag. It is not six-shooters."

A. Yes, sir; that is why I thought it was the soldiers, because it was to my mind the sound of a high-pressure bullet, and I knew the citizens were not going around the town with high-pressure bullets.

Q. Did you know what the soldiers were armed with?—A. I knew they had improved arms, high-pressure guns; I did not know whether Krag or Springfield.

Q. From your experience with arms you called it a Krag, didn't you?—A. No, sir; I did not mean it in that sense.

Q. Is that answer correct?—A. What I meant by "Krag" was that it was a high-pressure bullet; I did not know whether a Springfield or Krag or a Mauser or whether there is any difference in the sound of them, but I did know the difference in the sound between a high-pressure cartridge and a six-shooter.

Q. You do not want to modify it now?—A. No, sir; I do not want to modify it.

Q. You did not mean it was a Krag, but that it was a high-pressure gun?—A. That is what I meant.

Senator TALIAFERRO. He stated that in his testimony originally.

The WITNESS. I am here to try to tell the truth.

Senator BULKELEY. Where did he say that?

Senator WARNER. On page 67 you will find this question:

Q. And what would you say as to the pressure of the cartridges that were fired on that night?—A. I did not know then whether they were Krags or Springfield, but I knew that they were high-pressure cartridges.

A. That is what I was trying to get at.

By Senator BULKELEY:

Q. Did you know what the troops were armed with?—A. No, sir; I did not. I did not have any business in the post.

Q. Did you know there were any Springfield guns?—A. No, sir. I knew there was a Springfield gun made.

Q. But on page 65 here you originally spoke of a Krag gun.—A. I knew that the troops had been armed with Krags, and I knew by reading the newspapers that the troops had, some of them, been armed with Springfields.

Senator TALIAFERRO. I simply wanted to call Senator Bulkeley's attention to the original testimony of this witness before Mr. Purdy, on page 65:

I told him that I presumed it was some drunken soldiers shooting down at the post, and he said, "Why do you think that?" and I said, "Because that is the sound of a Krag; it is not six-shooters."

A. That is what I meant exactly.

Senator BULKELEY. That is what I just read.

Senator TALIAFERRO. You asked where he had stated that.

The WITNESS. In Brownsville there is no paid fire department, and in case of fire the police will go out and shoot volleys out of their six-shooters. That is the fire alarm, and the moment this shooting commenced I knew it was not a six-shooter; I knew it was the crack of a Krag, and necessarily, there, an army gun; that is, high-pressure bullet. That is what I meant by the crack of a Krag—the crack of a high-pressure gun.

By Senator BULKELEY:

Q. See if this is correct:

Q. Could you tell from the sound of the shots, Mr. Hammond, as to whether the guns which were being fired were high-power or low-power guns?—A. I could say that when Mikesell asked me what that was, I said, "It is the soldiers down at the post;" and he asked me how I knew it, and I said, "It is the crack of a Krag."

A. Well, I qualify "the crack of a Krag" by saying what I meant is that it was not a six-shooter; that it was a high-pressure cartridge.

Q. Then you want to qualify that answer, do you.—A. I have already qualified it.

Q. You say you do qualify it?—A. I qualify it by saying so far as being the crack of a Krag, I could not tell the crack of a Krag from the crack of a Springfield or the crack of a Mauser; but I can tell the crack of a six-shooter from a high-pressure bullet.

Q. What I am reading to you is the testimony that you gave, and you stated in your jurat that you—

Senator PETTUS. Mr. Chairman, I object to the Senator arguing the question with the witness.

The CHAIRMAN. I think that the Senator himself will concede that that is correct.

By Senator BULKELEY:

Q. You read this testimony over before signing it?—A. Yes, sir.

Senator HEMENWAY. I suggest the reverse from what the Senator from Alabama suggests—that the witness should be prevented from arguing with the Senator.

Senator BULKELEY. Well, the Senator does not mind that.

The CHAIRMAN. The Senator from Connecticut will proceed.

By Senator BULKELEY:

Q. In the middle of this firing, shooting all around the hotel, your companion went off to bed, didn't he?—A. He went to bed. He was from Ohio. He had not been there long enough.

Q. There are some pretty good shooters in Ohio. After the firing was over, how soon did you go to bed?—A. I went to bed as soon as I thought it was safe. That is all there is to that.

Q. As soon as the firing was over you went to bed, like the rest of the Brownsville people, undisturbed by the shooting up of the town?—A. The street was full of people when I went to bed, and I did not think I had any business down there.

By Senator TALIAFERRO:

Q. Mr. Hammond, in your testimony before Mr. Purdy, on page 67, in answer to a question, you stated that you saw the belt that was picked up in the alley, and also the soldier's cap?—A. Yes, sir.

Q. What sort of a belt was that?—A. It was the regulation belt that they had down there, a belt with a big buckle in front, an army belt.

Q. A regular army belt?—A. Yes, sir; a regulation belt.

Q. And an army cap?—A. Yes, sir. The cap had the company on it, and the little crossed guns, you know.

Q. Do you remember the letter it had on it?—A. No, sir; I don't.

Q. Do you know what became of the cap and belt?—A. No, sir; I don't. I know that they were turned over to the committee that went down to interview the post people. I know that much, but what became of them after that I don't know, sir.

Q. Did you see any of the shells?—A. I did not see any picked up. I saw a number after they were picked up.

Q. Did you examine any of them?—A. Yes, sir; I looked at them.

Q. Could you state positively what shells they were?—A. They were long-range shells.

Q. Used by the Government in the Springfield rifle?—A. What I know about that is hearsay. I heard some ex-soldiers say that that

was the army cartridge, and that the guns that they were using down at the post were the only guns in existence that would shoot that cartridge. I don't know anything about it beyond that, because, as I say, I have not paid any attention to military affairs.

Senator SCOTT. Mr. Chairman, in regard to the matter under discussion here, I simply wish to suggest that I think that as far as possible when a Senator is examining a witness he should be allowed to proceed without interruption.

Senator LODGE. If that question is to be discussed now, we will discuss it.

The CHAIRMAN. I think that is the proper rule. and I think it is one which everyone of us has transgressed more or less. It is in the interest of the orderly examination of witnesses that Senators should be allowed to proceed without interruption. I think we have followed that rule pretty generally, and I do not think we need to discuss it further.

Senator LODGE. If I may be allowed to say a word, I do not think I have detained the committee with many questions to witnesses, and do not often interrupt. I think my interruption of the Senator from Connecticut was perfectly proper, and I shall interrupt again under similar circumstances. I will ask the official reporter to read the question asked by the Senator from Connecticut before the discussion arose—as to what the witness's opinion was when he heard the first volley, and what he said. I want that question and answer read.

The official reporter read as follows:

By Senator BULKELEY:

Q. What did you state was your first impression when you first heard the firing?—A. Why, I thought it was just a lot of drunken troops down inside the post.

Q. Have you testified before in regard to this?—A. I don't remember, sir—I testified before Mr. Purdy, very hurriedly.

Q. Did you testify as to what your opinion was after the first firing?—A. Why I testified that after the first volley, when Mikesell asked me what it was, that I said it was a lot of drunken soldiers firing down at the post, something to that effect.

Q. Did you read your testimony over before you swore to it?—A. I have read the testimony over one time; yes, sir.

Q. Did you say this—

Senator LODGE. One moment. I ask to have the record of his testimony read, showing what he said.

Senator LODGE. I interrupted the examination for the reason that when a witness is called upon to answer in regard to his previous testimony I think the entire question and answer upon which he is being cross-examined should be presented to him. I think that if we do not do that we run the risk of having a garbled record by attempting to show that the witness has contradicted himself, when in fact he has not contradicted himself at all. If he is to be cross-examined on what he has testified to, it is his privilege to have it before him. Of course we are here, all of us, for but one purpose, to try to arrive at the truth of this affair. There is nothing else before this committee. My object was not to interrupt any Senator in any question he is asking. I have made but few interruptions, and simply desired to prevent what I considered a form of question which was likely to result in a distortion of the testimony.

Senator SCOTT. The only point that I have in mind is that you

could have made this statement after Senator Bulkeley had completed his examination.

Senator LODGE. I will say to the Senator from West Virginia that I think when a witness is being cross-examined on previous testimony that he has given, which is in print and before the committee, I shall insist that the whole question and answer upon which he is being cross-examined be read and put in the record at the time the cross-examination is being made, and that he be not subjected to having a sentence pulled out of the middle of his answer and put to him as bearing on testimony that he is now giving.

Senator BULKELEY. I do not mind an interruption from the Senator from Massachusetts. I was not attempting to cross-examine the witness. As I understand it, I have a right, as every Senator has here, not by cross-examination, but to conduct a direct examination, and I found that in this witness's testimony he had stated that he had had a wide experience with periodical visits in towns where he had been located with cowboy shootings up of the town, and I wanted to find out if on that statement he was basing the other statement that when he first heard this firing, and for some time after, he believed it was a cowboy shooting scrape. I thought when I asked this, and I think now, that it was a proper question; and if it will satisfy the Senator from Massachusetts I will ask that all of the witness's testimony before Mr. Purdy be put in in connection with my examination.

Senator FORAKER. Mr. Chairman, I suggest that while the rule indicated by the Senator from Massachusetts is correct, if he will look at this printed record I think that he will agree that it is not necessary to include the entire statement of the witness.

Senator LODGE. Not at all. All I ask to have put in the record is what the witness testified on that point. I wish to have included in the record simply these words:

Q. Will you go on and state, Mr. Hammond, just what you did after you heard this first shooting?—A. I was sitting there talking to a young man, Mike-sell, from Ohio—Covington, Ohio, I think—and when this volley was fired he asked me what they meant. I told him that I presumed it was some drunken soldiers shooting down at the post, and he said "Why do you think that?" and I said "Because that is the sound of a 'Krag'; it is not six-shooters."

By Senator FRAZIER:

Q. When you went in the sample room and went to the window, about which you have spoken, did you look out of that window into Thirteenth street?—A. I did not. The blinds were closed. That is about the only thing that saved me, I guess, because I was not more than 5 feet from them. The blinds were closed. That is why I did not see them.

Q. Did you stand near the window on the side next to Thirteenth street?—A. Yes, sir. There was probably an 8-inch space there, and I was right in it, the wall right back of me, and I was standing right in that space.

Q. So you did not see out of the window?—A. I could see the flashes from their guns through the cracks in the window and through the cracks under the door, but I could not see to distinguish anybody outside.

Q. About how far did the men who did the shooting, and about whom you have testified, appear to be from you?—A. Somewhere from 5 to 10 feet. They were on the sidewalk.

Q. Just outside of your window?—A. Yes, sir; and the wall runs right up to the sidewalk. The wall makes one side of the sidewalk, and there, where they were shooting, they could not have been to exceed 10 feet, and probably not over 5 feet—from 5 to 10 feet.

Q. And you could hear them very distinctly?—A. Yes, sir.

Q. Heard one man whom you thought was a negro make the remark, and use the epithet you spoke of?—A. Yes, sir.

Q. You were satisfied that was a negro's voice?—A. Yes, sir.

By Senator TALIAFERRO:

Q. In your testimony before Mr. Purdy you say that when you went into the sample room the clerk loaded a Winchester?—A. A Winchester shotgun; yes, sir.

Q. A Winchester shotgun?—A. Yes, sir.

Q. In your testimony to-day you said that it was a shotgun, and I wanted to know about that.—A. A Winchester shotgun. He put it together. It was in a case, one of these knockdown guns, you know, and he took it out and put it together, put shells in, and set it down just inside the door, and he said: "If they break in here, the first one that can get the gun let him have it." and he disappeared. I did not see him any more that night, and I don't know what became of him.

Q. Do you know the lieutenant of police?—A. Yes, sir; quite well.

Q. Do you know his reputation in Brownsville?—A. I know there is not a man in Brownsville that stands any higher than Dominguez. There is nobody in Brownsville that looks after the sick and the people in want and distress as Dominguez does.

Q. He is not a man who has enemies in the town?—A. He has not an enemy on earth that I know of. He has been the tyler of the lodge there for years; there is not a man in the city of Brownsville that stands any higher, masonically or as a citizen, than Dominguez does.

Q. Knowing his reputation as you do, you would not suppose that cowboys or Mexicans, shooting up the town, would have singled out Dominguez?—A. No; I don't believe that there is a man in the town that has got anything against Dominguez. He is a Christian gentleman.

By Senator FRAZIER:

Q. And a truthful man?—A. Yes, sir; I would believe him as I would believe my own father.

By Senator FORAKER:

Q. He might have been mistaken, however, as to a fact, as well as anybody else.—A. That is possible, but so far as the character of the man is concerned, I belonged to that lodge down there a while, and I know that he is a Christian gentleman.

By Senator TALIAFERRO:

Q. His reputation generally is good, and he is a popular man?—A. Yes, sir; absolutely. I have never heard anybody say anything against him at any time.

Senator WARNER. I have no further questions.

At 1.15 o'clock p. m., the committee took a recess until 2.30 o'clock p. m.

AFTERNOON SESSION.

The committee met, pursuant to the taking of recess.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Overman, and Frazier.

TESTIMONY OF CHARLES B. CHACE.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. What is your business, Mr. Chace?—A. I am a locomotive engineer.

Q. What is your age?—A. Fifty-one.

Q. How long have you been a locomotive engineer?—A. Nearly twenty-eight years.

Q. On what road are you running?—A. At the present or during that twenty-eight years?

Q. Well, no; we will not go back over that twenty-eight years.—A. I have only been on two roads.

Q. What two roads?—A. On the Houston and Texas Central. I worked for them twenty-five years. I commenced to work for them first railroading, and I have been with the St. Louis, Brownsville and Mexican for three years the first of this month—May.

Q. Where were you running for those roads—in Texas all the time?—A. Yes, sir.

Q. Are you a native of Texas?—A. No, sir.

Q. Of what State are you a native?—A. Massachusetts.

Q. What are the points between which you were running on your road in August of last year?—A. I was running between Corpus Christi and Brownsville.

Q. Who was the fireman on your train?—A. Mr. Bodin—Joseph Bodin.

Q. And how often would you be in Brownsville?—A. I was there three nights in the week—Monday, Wednesday, and Friday.

Q. And how long has Brownsville been your headquarters—that is, for what time?—A. I started running into Brownsville in October, and I ran until the first of last November into Brownsville—about thirteen months. I am not running into Brownsville now.

Q. You were there on the night of August 13, last year?—A. Yes, sir.

Q. Where were you that night; where were you stopping?—A. At the Miller Hotel.

Q. On what floor of that hotel were you?—A. The third floor.

Q. Mr. Chace, in your own way, state what you heard of the shooting, first; just state it as you remember it.—A. You want it just as I heard and saw it?

Q. Certainly.—A. Yes, sir. Well, sir, I retired as usual, about 9.30, that night, and went to my room, and as it was a hot night I left my door open, and I went to sleep. I was waked up later in the night by volley shooting, over toward the barracks, and after the first shots were fired I got up and looked out of the window. The

first man that I saw after I looked out of the window was a man came around off of Elizabeth street, onto Thirteenth street.

Q. You afterwards learned who that man was?—A. Yes, sir; I was just going to tell you.

Q. Yes.—A. I learned the next morning that that man was Mr. Tillman, the proprietor of the Ruby Saloon.

Q. He was going in the direction of his home, was he?—A. I do not know, sir. They told me that he was going home.

Q. Proceed.—A. I watched him go up the street, opposite my window, and as he proceeded up the street, there is a two-story building just the other side of the alley, and they lighted a lamp in the second story just about the time he went by, and I heard four or five voices holler to put out that light, and they put the light out, and I glanced farther up the street and I saw the lieutenant of police turn into the street on horseback.

Q. What street?—A. He turned in from Washington street onto Thirteenth street, on a gray horse, and I watched him coming down the street until he passed under my window, and just after he passed under my window I saw two men come out of the alley back of the Miller Hotel and cross Thirteenth street, and when they got on the opposite side of the street they stopped and fired several shots, and as I heard the bullets whizzing around my window I ducked my head down to get out of the way, of course, and after they got through shooting the shooting continued up the alley, and a few seconds afterwards, or minutes, there was another volley of shooting on my side, on the side of Thirteenth street under my window, and after the shooting was all over I got up and looked out of the window and saw the horse of this lieutenant of police lying down on Elizabeth street, and the next morning when I went down there the horse was dead, and I suppose he was dead that night.

Q. How many of these men was it you saw?—A. I saw two men.

Q. Two men; and they came out of the alley?—A. (Continuing.) Who I took to be soldiers, as they had soldiers' dress on—clothes.

Q. What do you mean by having soldiers' clothes on?—A. Well, they were dressed like soldiers, the same uniform, leggings, and both dressed alike; wide rim hats.

Q. Did you have any doubt at that time of their being soldiers?—A. Well, I didn't pay much attention to them, but just like I always did, when I met a man on the street, if he had soldiers' clothes on I passed him as a soldier, and if he was dressed as a civilian I knew that he was a citizen, if he had citizens' clothes on; just the same as when I meet anyone down the street, I tell the difference between a woman and a man by the dress.

Q. If a person had a dress on you would say that you met a woman?—A. Yes, sir; I would say I supposed it to be a woman.

Q. Now, about how far were these parties from you, these two that came out of the alley, that you say were soldiers?—A. They might have been from 80 to 100 feet—80 feet.

Q. Down that way?—A. Yes, sir; I was looking down on them, you see.

Q. Was it so that you could see their faces and tell what kind of people they were?—A. No, sir.

Q. From the position that you were in?—A. No, sir. After they

got across Thirteenth street they stopped in the shadow of a brick building there that has a little eave shed to it, and they were in under that when they did the shooting.

Q. Yes. Then you heard the volley of shooting the other side of the street?—A. No, sir; the next volley of shooting after that was on the side of the street that the Miller Hotel is on; after I heard the first volley of shooting it kept approaching towards the Miller Hotel, and it seemed to divide up, a part of it. The first shooting was volleys, and then—

Q. Coming toward the Miller Hotel; that is, from the fort?—A. Yes, sir; from the fort.

Q. Coming up into the town?—A. Yes, sir.

Q. When you say that the first was volleys and after that it seemed to divide up, what do you mean by that, Mr. Chace?—A. Well, in the first shooting the shooting was all together.

Q. Yes.—A. And then it got scattering.

Q. What you might call firing at will, I suppose?—A. Yes, sir; I suppose it was.

Q. Now, this firing of these two soldiers that you saw, and the other from the Miller Hotel side, how soon was that after you saw the lieutenant of police pass?—A. It could not have been more than two or three minutes, to the best of my recollection.

Q. It was right along that same time, substantially?—A. Yes, sir.

Q. At that time what was the condition in the hotel as to excitement, if there was any?—A. Well, the women on the second floor were screaming and making considerable noise, and it was all confusion. That is, the most that I heard was the women screaming.

Q. Was that pretty general there—the excitement there?—A. Yes, sir.

Q. Did you know Mr. Hammond?—A. Yes, sir.

Q. Who was here as a witness?—A. Yes, sir.

Q. Did you see Mr. Hammond that night?—A. Yes, sir.

Q. What do you say?—A. Yes, sir; he came into my room after the shooting was over.

Q. Where was your room with reference to the one occupied by Mr. Hammond?—A. I do not know where Mr. Hammond's room was that night. I did not leave my room from the time the shooting commenced until morning.

Q. Was there any conversation by Mr. Hammond or by you when he came into your room as to who it was doing the shooting up of the town?—A. I think when he came in I asked him the question, "Who was doing the shooting?" and he told me the negro soldiers.

Q. Had you formed an opinion before that as to who was doing the shooting, after seeing these men with the uniforms on?—A. When I saw those men I naturally supposed it was the soldiers doing the shooting, but I can not swear to it.

Q. No; I suppose not. But that was your opinion?—A. That was my opinion.

Q. You saw those two dressed in soldiers uniform—you saw those two shooting?—A. Yes, sir; they shot up the Miller Hotel.

Q. You saw the flashes from their guns?—A. Yes; I saw the flashes from their guns. I did not see the guns; I just saw the flashes, and I heard the bullets whizzing.

Q. What made you dodge away from your window?—A. Because I did not care to get shot.

Q. Were there any bullets which struck near there?—A. The next morning I examined the hotel, and there was a bullet which had struck just to the right of my window, and one to the left of the window.

Q. Where you were standing?—A. Yes, sir. The marks are on the hotel there now, or were when I was there in December.

By Senator OVERMAN:

Q. Was there a light in your room?—A. No, sir; there was a light in the room adjoining my room, and that is what caused the trouble, I expect.

By Senator WARNER:

Q. From those bullet holes that you saw there, did you form any judgment as to the position in which the parties were that did the shooting?—A. Well, from the position of them, they came from the shots of those two men. From the angle of the shots in the hotel they must have come from the corner of the alley on the opposite side of Thirteenth street.

Q. Those shots went in on each side of the window at which you were standing?—A. Yes, sir; into the brick wall.

Q. Into the brick wall?—A. Yes, sir; and then on the opposite side of the street, on the other corner, there are shots in there that must have come, by the angle of them, from men that stood at the corner of the Miller Hotel and the alley.

Q. Did you hear any voices from the men on the street?—A. No, sir.

Q. Considering the screaming that there was in the hotel—that is where you were, on the third floor—would that have been sufficient to have prevented you from hearing if anyone had spoken down there?—A. Yes, sir; if anyone had spoken when those soldiers first came there, I could not have heard them.

Q. Where you were?—A. Yes, sir; where I was. At least, I do not think I could.

Q. Are you accustomed to the use of firearms?—A. No, sir; nothing more than six-shooters, like they have in Texas, ever since I have been there.

Q. Were those shots you heard the reports of six-shooters, or were they the reports of what we call high-power rifles?—A. They must have been the reports of high-power guns; although it may be there were six-shooters, and the high-power reports drowned the reports of the six-shooters, if there were any there.

Q. They may have drowned the reports of the six-shooters if there were any there?—A. Yes, sir.

Q. You did not go out of the hotel that night?—A. No, sir.

Q. In the morning you went out?—A. Yes, sir.

Q. Now, did you see any of the shells?—A. No, sir; they were all picked up, I think, before I got around.

Q. Did you see some that were alleged to have been picked up around there?—A. I heard parties say that they had picked them up, and that they had shells. I have been sorry ever since that I did not pick up one.

Q. Did you have any prejudice against the colored soldiers?—A. No, sir.

Q. Not any whatever?—A. No, sir.

Q. How long did you continue running into Brownsville after the 13th of August?—A. Until the 1st of November.

Q. During all the time after this shooting up of Brownsville, was there anything that ever changed your opinion in the least that it was a fact that it was those colored soldiers who did the shooting up of Brownsville that night?—A. No, sir.

Q. What did you say?—A. No, sir; nothing ever changed my opinion, and never will.

Q. Where was Tillman's saloon, with reference to the Miller Hotel?—A. It was about midway of the block on Elizabeth street, between Twelfth and Thirteenth streets.

Q. And the Miller Hotel is on Elizabeth street, on the corner of Thirteenth and Elizabeth streets?—A. Yes, sir; the Miller Hotel is on the corner of Thirteenth and Elizabeth streets.

Q. Do you happen to know where Mr. Tillman's residence was at that time?—A. No, sir.

Q. Mr. Tillman was coming in the direction from his saloon when you saw him?—A. Yes, sir; he was coming from his saloon.

Q. How many shots in all would you estimate that you heard that night?—A. Well, I could not estimate them, because the first volleys that were fired, I do not believe anyone could tell anything about them. You see, the first volley that was fired, that woke me up, and, of course, I was awakened up out of a sound sleep, and I could not estimate anything about those shots, how many there were.

Q. About how many shots were fired in the neighborhood of the Miller Hotel after you were aroused?—A. I can not say that, either.

Q. Well, give us an estimate, whether there was a considerable number or not.—A. There were all of a dozen.

Q. And then which way did the shooting go?—A. The shooting kept down the alley.

Q. The alley between Washington and Elizabeth streets?—A. Yes, sir; and it continued on down between Thirteenth and Twelfth streets.

Q. About how long did the shooting continue after you were awakened by this volley?—A. Well, it could not have been over ten minutes, I don't believe. It might have been longer.

Senator WARNER. Those are all the questions that I wish to ask.

By Senator FORAKER:

Q. You were sound asleep when the firing commenced?—A. Yes, sir.

Q. You do not know how many shots were fired before you were aroused, of course?—A. No, sir.

Q. When you did get awake you heard something like a volley?—A. Yes, sir; the first shooting was in volleys.

Q. Do you mean just one report from a number of shots fired simultaneously, or do you mean there was a rapid succession for a time—a rattling?—A. Just all fired at once.

Q. Just one report?—A. Not exactly one. Just like I have heard in these sham battles—that is, it was a rapidly succeeding firing.

Q. One shot rapidly succeeding another; was that the idea?—A. Yes, sir.

Q. About how many shots did you hear?—A. I could not tell you. I was not counting them that night.

Q. I know; but give us the best idea you can.—A. I can not give it.

Q. At any rate, you were awakened, and then you heard this firing after you got awake, and then you got up, did you, right away?—A. I got up right away; yes, sir.

Q. And went to the window? How many shots, perhaps, had you heard after you got awake before you got to the window?—A. It didn't take me long to get to the window, because my bed was right alongside of it. All I had to do was to raise up and just look out of the window.

Q. I know; but you heard a number of shots before you got out of the bed?—A. I heard the shots that awoke me.

Q. You heard those shots and then a continuation of the firing?—A. And the first volley. I don't know whether there was any other firing before I awoke or not.

Q. I am speaking of what happened after you got awake. You heard a volley that awoke you, and then you heard a volley after you got awake; a continuation of that volley, did you not?—A. Yes, sir; but I am going to tell you right now it is impossible for a man that is waked up that way in the night, out of a dead sleep, to estimate or count the number of shots fired. I would not undertake to tell how many there were fired.

Q. I think that is probably true; and yet we want to get your best estimate, if we can.—A. I can not estimate and I will not undertake it.

Q. Well, that is enough, then; that is all I want to know. You did hear a number of shots before you got up?—A. Yes, sir; as I have stated.

Q. Then you got up?—A. Yes, sir.

Q. Was the window up?—A. Yes, sir; wide open, in that country.

Q. You had it opened wide?—A. Yes, sir.

Q. Was there any screen or anything of the kind?—A. No, sir.

Q. You could look right out into the open?—A. Yes, sir.

Q. And you did look out?—A. Yes, sir.

Q. From the third story?—A. Yes, sir.

Q. Down onto the street?—A. Yes, sir; I looked up and down the street.

Q. What?—A. I looked up and down the street and down onto the street.

Q. You saw a man passing?—A. I saw a man come diagonally around the corner off of Elizabeth street onto Thirteenth street.

Q. Here is Elizabeth street [indicating on map]?—A. Yes, sir.

Q. This is Twelfth street?—A. Yes, sir.

Q. And here is Thirteenth street?—A. Yes, sir; that is the corner that I saw Mr. Tillman come around.

Q. He came right around there?—A. Yes, sir.

Q. And he was on that side?—A. Yes, sir.

Q. Did he continue on that side?—A. As far as I watched him, he did.

Q. How far did you watch him?—A. I watched him until he got to the alley.

Q. You watched him until he got to the alley?—A. Yes, sir; then when they lighted those lamps on the other side of the alley that took my attention from him.

Q. Where was the building at which the lamps were lighted on Thirteenth street?—A. About opposite the top of that letter "T" there on the map.

Q. About opposite the top of that letter "T"?—A. Yes, sir.

Q. What building is that?—A. I could not say. There was a plumbing shop below and some one lived upstairs.

Q. And some one called out—A. "Put out that light."

Q. "Put out that light?"—A. Yes, sir.

Q. Do you know who that was?—A. I do not.

Q. Might it have been Mr. Tillman who called out "Put out the light?"—A. It might have been.

Q. How did you know that this was Mr. Tillman?—A. I inquired about it. I told some parties about it who knew him, and asked who it was, and they told me.

Q. How did they know who he was?—A. It was some one who knew him.

Q. Did you ask Mr. Tillman yourself?—A. No, sir.

Q. You asked some one that saw him that knew him?—A. Yes, sir.

Q. You did not know him at all?—A. No, sir.

Q. Do you know where his saloon it?—A. Yes, sir.

Q. He keeps a saloon on the east side of Elizabeth street?—A. Just about in there. I think that about represents his saloon [indicating on map].

Q. Yes; that is marked on this map "Tillman's saloon." That is his place of business?—A. Yes, sir.

Q. He was coming around this way, and you saw him come around the corner of Elizabeth street and up Thirteenth street, and you followed him as far up as the alley?—A. Yes, sir.

Senator WARNER. He followed him past the alley.

By Senator FORAKER:

Q. Did you follow him beyond the alley?—A. Yes, sir; until he got under the awning of that two-story house.

Q. Which two-story house?—A. Right where that "T" is.

Q. Right here there is a two-story house with an awning [indicating on map]?—A. Yes, sir.

Q. Is there an awning over the sidewalk here, also; that is, below the alley [indicating]?—A. That is a different kind of a building. That is a higher building; the King Building, right on the corner; and after you got up past that I do not think there was any other awning at all.

Q. Is there no awning opposite that capital "T"?—A. Yes; there is a little awning there.

Q. There is an awning there at the King Building?—A. Yes, sir; but that does not extend to the alley.

Q. It does not extend to the alley?—A. No, sir.

Q. But it extends to the corner, up that way [indicating]?—A. Yes, sir.

Q. And it covers the sidewalk, does it not?—A. It projects straight out. There is a walk around up there, to get to the offices there.

Q. There is a walk up where?—A. There is a walk on top. It projects out. There are no posts, or anything, to it. It is high. It is a higher building than what that two-story building is.

Q. Where was it that the two soldiers, as you call them, went and

got under cover so that you could not see them?—A. On Thirteenth street there, back of the Miller Hotel, on the opposite corner there.

Q. About where I am pointing [indicating]?—A. No, sir; on the other corner.

Q. This corner?—A. Across the alley.

Q. Come and point it out yourself.—A. On this corner here, right beside this building, here [indicating on map].

Q. And they did their firing here?—A. Yes, sir; right diagonally across this way. It was about there in the Miller Hotel [indicating].

Q. And they fired across the alley?—A. Across Thirteenth street and the alley.

Q. Now, go back to Mr. Tillman. When he passed around the corner, he passed under that veranda, or shed, or whatever it was?—A. Yes, sir.

Q. And when he crossed the alley he passed under another similar to it, did he not?—A. Yes, sir.

Q. Could you see him when he was walking on that side of Thirteenth street, after he turned around the corner and while he was under the awning?—A. Yes, sir; plain.

Q. You could see him?—A. Yes, sir.

Q. Are there any lights there?—A. Yes, sir; those stars on the map represent lights.

Q. Here is one down on Elizabeth street. This street is 60 feet wide [indicating].—A. Elizabeth street?

Q. Yes.—A. Yes, sir.

Q. It is 60 feet wide. That is where that light is on that corner; 60 feet from the point where you saw him come around the corner. There is another lamp that would throw a light down there?—A. Not there; no, sir.

Q. There is nothing there, and yet you were here in the rear part of the hotel—A. About midway of the hotel; not quite in the rear. About 40 feet or more from the alley.

Q. Then you would be 100 feet from the lamp?—A. Yes, sir.

Q. And he was under the shed?—A. Yes, sir.

Q. And you were looking down from the third floor?—A. I could see him plain; the shed was so high that I could see him right down on the walk.

Q. Could you see how he was dressed?—A. Yes, sir; that is, he was in his shirt sleeves.

Q. In his shirt sleeves?—A. Yes, sir.

Q. Did he have a hat on?—A. Yes, sir.

Q. Was he carrying anything?—A. Nothing at all.

Q. What kind of a night was that?—A. Starlight.

Q. A bright night?—A. An ordinary bright night.

Q. Not particularly dark?—A. An ordinary night.

Q. You had no difficulty at all in looking out of that third-story window and seeing him when he was walking under the shed across the street?—A. None whatever.

Q. Under those conditions you could see him without any trouble?—A. Yes, sir.

Q. You saw him pass the alley?—A. Yes, sir.

Q. Did you see him under the other shed?—A. I lost sight of him when he passed there.

Q. Was there any firing going on then?—A. Over towards the barracks.

Q. They were still down there?—A. They were still doing business.

Q. And still firing?—A. Yes, sir; still firing.

Q. Could you tell where the firing was located about that time?—A. From the direction, I supposed it was about the corner of Fourteenth and Cowen.

Q. Fourteenth and Cowen. That would be about a square away from where Mr. Tillman crossed?—A. Yes, sir; about in there—probably farther back.

Q. About what pace was Mr. Tillman traveling?—A. In a fast walk.

Q. In a fast walk?—A. Yes, sir; he was in a hurry.

Q. He was in a hurry?—A. Yes, sir; he was going like I would go if I was in a hurry.

Q. Was he running?—A. No, sir; not running.

Q. Just walking?—A. A fast walk.

Q. Was this a warm evening?—A. Yes, sir; a hot night.

Q. But you do not know how far he went over on Thirteenth street?—A. No, sir; I do not know anything about that.

Q. And you do not know where he lived?—A. No, sir.

Q. How soon was it, when he got out of sight, when the men came up to Thirteenth street through the alley?—A. After he got out of sight?

Q. Yes.—A. It must have been three or four minutes.

Q. Three or four minutes?—A. Yes, sir.

Q. And the first thing you saw was Dominguez, I believe, after Mr. Tillman passed?—A. No, sir; I watched the lights in that two-story building.

Q. We have already put them out.—A. I saw them after I lost sight of Mr. Tillman.

Q. They were lit then?—A. Yes, sir.

Q. I thought you said you saw the lights when Mr. Tillman was going up that way? And I asked you if it might have been Mr. Tillman that called to them to put out the lights.—A. No, sir; I said that I saw Mr. Tillman come around the corner and go up as far as that building, and then I saw the lights, which called my attention there.

Q. I thought you said that somebody hollered to put out the lights?—A. Yes, sir.

Q. And I asked you if it might have been Mr. Tillman who hollered to them to put out the lights, and you said that it might have been.—A. Yes, sir; I could not tell who it might have been.

Q. And where was the shooting at that time?—A. Up in that direction, toward Fourteenth street.

Q. Up in that direction?—A. Yes, sir.

Q. The lights went out?—A. Yes, sir.

Q. And Mr. Tillman went out, too—out of your sight?—A. Yes, sir.

Q. What was the next thing you saw, Dominguez?—A. Dominguez, turning in from Washington street.

Q. You saw him turn in from Washington street?—A. Yes, sir.

Q. You were in the third story of the Miller Hotel?—A. Yes, sir.

Q. And you were about 40 feet back from Elizabeth street?—A. Forty feet from the alley.

Q. Well, 40 feet from the alley. And looking out of your window you saw Dominguez as he came in off of Washington street on his horse?—A. Yes, sir.

Q. And there were two men with him?—A. I think there were two men with him.

Q. You could see them distinctly, too?—A. Yes, sir. I would not swear positively, but I think there were two men with him when he turned into Thirteenth street off of Washington street.

Q. You saw him distinctly on his gray horse?—A. On a gray horse; yes, sir.

Q. And there were two men with him?—A. I think there were two men; I would not swear positively.

Q. Where were they; walking beside him?—A. Yes, sir.

Q. One on each side?—A. Yes, sir.

Q. Why do you think that there were two men with him?—A. I think there were two men; I think I saw two men with him.

Q. Have you any recollection of having heard that there were two men with him?—A. No, sir; I never heard that. I have not heard much about it. I am just telling you what I saw and what little I can recollect.

Q. Well, I want all that you saw and all that you recollect, but I do not want anything more than you recollect.—A. I do not want to tell you anything more than I recollect.

Q. Dominguez came on down to the alley. Did you see him pass the alley?—A. Yes, sir.

Q. What kind of a gait was he going?—A. The horse was walking.

Q. Walking along slowly?—A. Walking along leisurely.

Q. Did he walk along leisurely until he got clear down to the other corner here, where his horse was shot?—A. I did not see him after he passed my window.

Q. But he continued to walk until after he passed your window?—A. Yes, sir.

Q. So that if he said he was going at a fast trot when he passed across in front of that alley and came down there, he is mistaken about it, is he not?—A. I don't know; I would not swear to that. I might be mistaken myself.

Q. That is what I would like to know.—A. I might be mistaken myself.

Q. Then it may not be true, as you said a minute ago, speaking from your best recollection, that he was going at a slow walk. You simply think that he was going at a slow walk, and if he said the other you would not contradict him?—A. No, sir; because he would know best.

Q. He would know best about that?—A. Yes; because he was riding the horse. I saw him on horseback.

Q. If he said he was going at a fast trot, you would not adhere to your statement?—A. I would admit that he was going at a fast trot.

Q. Was there any firing here before he crossed the alley?—A. No, sir; it had not got that far down.

Q. How long after he passed you was it that you saw the two men come out of the alley?—A. Not a great while; a couple of minutes, or three.

Q. You think it was a couple of minutes?—A. Two or three minutes; yes.

Q. He testified that he was coming and did not stop anywhere, and he was wounded, and his horse was killed at that corner. It would not take him very long to get there. Two minutes is a good while when there is shooting going on.—A. There might have been somebody there to shoot him. I don't know who shot him.

Q. Did you hear anybody calling out any names, or anything of the kind?—A. No, sir.

Q. You did not hear anything of that kind?—A. No, sir.

Q. You were in a situation where you could have heard?—A. It was pretty noisy around there that night.

Q. Pretty noisy, I know; but it was perfectly quiet when Mr. Tillman went up there?—A. Went up where?

Q. When Mr. Tillman went up Thirteenth street; there was no noise then?—A. It was quiet then. The only voices that I heard were when they hollered to put out the light. I heard those voices.

Q. You had no trouble to hear those voices at all?—A. No, sir; everything was quiet. The shooting was off from the Miller Hotel.

Q. And when the lieutenant of police went by there was no noise then, because the firing had not reached there yet?—A. The firing was nearer the Miller Hotel then. It was not as quiet then as when Mr. Tillman went by. It was several minutes afterwards.

Q. It was not so still?—A. No, sir.

Q. That is, the firing was somewhere in the alley?—A. Yes, sir; approaching.

Q. Coming closer?—A. Yes, sir.

Q. Was there anybody on the street here?—A. I could not say.

Q. Did you hear the lieutenant holler anything?—A. No, sir.

Q. You did not hear him say to put out the lights, did you?—A. He might have said to put out the lights; I could not say.

Q. The voice that you heard saying to put out the lights might have been his voice?—A. No, sir; he was not close enough.

Q. He had not come there yet?—A. No, sir; not yet.

Q. It was after you heard that voice crying to put out that light, and saw them put the light out in that building over there, that you saw him come off of Washington street and turn into Thirteenth street?—A. Yes, sir; it was after that.

Q. So that you are sure it was not his voice you heard holler to put out the lights?—A. No, sir; I could not have heard his voice. He was too far away.

Q. So that later, when he came down and crossed the alley, you think he walked his horse across; but whether he walked or trotted, you did not hear him call to put out the lights?—A. No, sir.

Q. If he had called out in a loud voice to put out the lights, you would have heard him?—A. He might have called out and I would not have recognized his voice. I had never spoken to the man in my life, and did not know his voice.

Q. But you would have recognized his voice just as well as any other voice?—A. The lights were out when he came down there.

Q. You did not have any lights, did you?—A. No, sir.

Q. And you do not know whether there might have been lights in the rear end of the Miller Hotel?—A. There was a light in the next room to mine, room 41.

Q. Whose room was that?—A. Mr. Kennedy's room.

Q. That was Mr. Kennedy's light?—A. Yes, sir.

Q. And that was what caused them to shoot up the hotel, you think?—A. Yes, sir; I suppose so.

Q. Do people that go out on these midnight raids usually shoot out the lights?—A. I have seen a good many shoot out the lights. They have to have a mark to shoot at, and a light makes a pretty good mark.

Q. It is an actual fact, is it not, that in these scrapes where they shoot up towns, these frontier people, cowboys, as they call them, generally go for the lights, do they not?—A. I don't know. This is the first town that I was ever in that was shot up.

Q. This was the first one? Then what did you mean by saying a while ago that they usually did that?—A. Did what?

Q. Shot out the lights.—A. I have seen them shoot the lights out, but I never saw them shoot up a town like this town of Brownsville was shot up.

Q. Where did you see them shoot out the lights and perform in this manner?—A. I lived at a place that they call "Six-shooter Junction" for several years.

Q. Where is that place?—A. At Hempstead, in Waller County, where Congressman Pinckney came from, who was assassinated.

Q. He lived at Six-shooter Junction?—A. Yes, sir; at Six-shooter Junction.

Q. And was that a very ordinary pastime there?—A. Yes, sir; a regular thing there.

Q. A regular thing?—A. A regular thing.

Q. If a man would see a lamp burning at night, he would go and shoot it out?—A. They would shoot out any lights they saw. When we went through there on the trains they would shoot at us.

Q. On the trains?—A. Yes, sir.

Q. How long ago was that?—A. My last service on the Central they shot into an excursion train.

Q. That is a regular thing there?—A. Yes, sir; a regular thing there. They may be shooting there now.

Q. How far is that from Brownsville?—A. That is about two or three hundred miles from Brownsville.

Q. Did you ever know of anything of that kind in any other town in Texas?—A. That is about all I ever ran up against, although they have it there.

Q. They have that same sort of experience in other places?—A. Yes, sir.

Q. It is not an infrequent thing at all, is it, in those western towns, in that part of the country, to have shooting-up parties?—A. No; they shoot out the lights in a town, but they do not shoot up a town like Brownsville was shot up on the 13th of August.

Q. You say they shoot out the lights, but—A. Yes; they go out for a frolic, as we say, or as you might call it, to paint the town red, I guess. I notice that they shoot them up, up North, once in a while, too. It is not all in Texas.

Q. No; but what I want to get is what it is down in Texas now?—A. Yes, sir.

Q. They never did anything of that kind in Massachusetts, did they?—A. I have seen them hanging alongside of the street pretty much the same.

Q. Did you ever see them burn any witches?—A. No, sir; that was before my day.

Q. Yes. Well, now, let us get back. You saw these two men come out of that alley. Were they the only two you saw?—A. Yes, sir. They commenced to shoot, and I got out of sight.

Q. Yes. And, as I understand you, now, they crossed Thirteenth street on the alley?—A. Yes, sir.

Q. And went over to the northeast corner, is that right, and took up a position there under a shed, an awning?—A. A little shed awning over there.

Q. They were under that so that you could not see them?—A. I could have seen them, but that made it dark, you know. They got out of the rays of those good lights, there.

Q. What good lights?—A. The one on Elizabeth street and the one on Washington street.

Q. They are how far away from that point? It is 50 feet across Elizabeth street, and 120 feet from the alley to Elizabeth street, I believe. Has that yet been settled?

Senator WARNER. I think that is about it.

Senator FORAKER. Which makes it 150 feet from the lamp on Elizabeth street.

The CHAIRMAN. I have been looking and measuring to see about that distance, and on the map which accompanies the book the scale is given in miles and in feet. I think there must be some error, because it makes these blocks only 75 feet from the street to the alley.

Senator FORAKER. We had the War Department engineer here. The distance has been testified to by some one who measured it.

Senator SCOTT. The War Department sent down there and had it measured.

Senator FORAKER. The distance is testified to as being 330 feet.

By Senator FORAKER:

Q. Whatever the distance is, there is no lamp except the one in Washington street and the one in Elizabeth street, which are good lights?—A. They are good for Brownsville.

Q. Do you know what the candlepower of those lamps is?—A. What their candlepower is?

Q. Yes.—A. It is not very strong, but you can see—

Q. Is it not true that they are only 8 candlepower lamps? That has been testified to. Do you not know that that is true?

Senator WARNER. I do not concede that, Senator Foraker.

Senator FORAKER. It has been testified to.

Senator WARNER. There is a difference on that. It has never been settled.

Senator FORAKER. Lieutenant Leckie went there to prepare himself to testify on that, and he testified about it.

The WITNESS. But just 1 candlepower, if a man passes between that and yourself, is enough for you to see him. I have been flagged on the railroad in 5 miles with just a little piece of paper, if you come to that.

By Senator OVERMAN:

Q. What is that?—A. I say that I have been flagged at a flag station on the railroad with just a little piece of paper.

Q. On the railroad at night?—A. Yes, sir; I have worked just about as much at night as in the daytime. Then think of these little fireflies; how far would you see those?

Senator FORAKER. According to this scale, the blocks would be, from middle of street to middle of street, 330 feet. That is what Lieutenant Leckie found them to be, according to my recollection of his testimony.

By Senator FORAKER:

Q. At any time were those two men closer to you than the distance out of your third-story window, which is about 40 feet from the rear of the Miller Hotel, down to the point where they appeared coming out of the alley on Thirteenth street?—A. Yes, sir. I did not see them until they got out probably 10 feet or more out from the alley.

Q. Yes; I suppose so. They were out in Thirteenth street before you could see them?—A. They were crossing Thirteenth street.

Senator WARNER. Does that testimony you speak of give the candlepower of those lamps?

Senator FORAKER. The witness said that they are about 8 candlepower. He gives the size of the wick—a half-inch wick—8 candlepower.

By Senator FORAKER:

Q. Now, there was no light that could shine on those men except that would have come from these lamps on Washington street and Elizabeth street?—A. No, sir.

Q. And yet you recognized distinctly their uniforms?—A. I recognized them across the street. I did not recognize distinctly, you understand, but I could see the leggings, and saw that they were dressed in soldier's clothes.

Q. You are sure they had on leggings?—A. Yes, sir; I would swear to that.

Q. And they had on hats?—A. Yes, sir.

Q. But you could not see their faces?—A. No, sir.

Q. Did you see the color of their clothing?—A. Their shirts appeared dark to me. I could not tell much about them, above, only the shapes of the hats. But the pants I could, and the leggings.

Q. What was the color of the pants?—A. They were drab.

Q. Drab; a khaki color?—A. Yes, sir.

Q. You could distinguish that?—A. They were light. I could distinguish that they were light colored. The principal thing that I could tell was the leggings.

Q. You saw their leggings? You are not mistaken about the leggings?—A. I am not mistaken about the leggings; no, sir.

Q. And when they fired, did you see them then?—A. As they went over there—the firing occurred just as they got over there, and—

Q. So that you did not notice from the fire the flashes of the guns?—A. No, sir; I could not tell by that; that was too quick.

Q. I want to call your attention to what you testified to before Mr. Purdy, and I want to read all that Senator Lodge may desire to have me read.

Senator LODGE. What page are you going to read from?

Senator FORAKER. I read from page 92, part 2, of Senate Document 155.

By Senator FORAKER:

Q. I will read from this, as follows:

Q. Will you describe now, Mr. Chace, as minutely as you can, the appearance of those soldiers that you saw go across Thirteenth street?—A. As I saw them go across Thirteenth street there were two together, and they hurried across Thirteenth street until they got into the shadow of the brick buildings in the alley.

That is correct, is it?—A. Yes; that is the same as I have told it to-day, I think.

Q. Yes, I think so. I only want to see whether you want to change anything. That testimony is in evidence here also.—A. I understand that. That came up at the court-martial at San Antonio; and I am going to tell you, before you read anything, that I told Mr. Purdy that they had the leggings on, and that I could swear to, but that as to the clothing, I was not so sure of that as of the leggings, but that they were both dressed alike. I will state that to you before you read anything.

Q. All right. I did not know that you had had any controversy.—A. Yes, sir; there has been a controversy over this affair before.

Q. I am only trying to give you a chance to change it if you want to.—A. I do not care about changing anything.

Q. We care; and if it is not correct, we want to get it correct, you know, Mr. Chace.—A. It is just this way, you understand: When it comes to this thing as it was that night, it is not like memorizing a thing so that you can tell it. As far as the shooting and anything you could see and hear was concerned, I can swear to that; and I can come pretty near to telling it just like I told it to Mr. Purdy; but this thing about those men—it wasn't a light night; if it had been daylight, I could have told just what they had on.

Q. Yes: I have no doubt of that.—A. I told Mr. Purdy that I could swear to the leggings, but as to the hats or their being negro soldiers I could not say.

Q. Then you could not swear to anything except that these men had on leggings?—A. And both had hats alike, and both were dressed alike.

Q. They were both dressed alike, in a general way?—A. Yes, sir.

Q. And both had guns, I suppose?—A. I did not see their guns; I just heard the reports of those guns.

Q. You did not see any guns as they went across the street?—A. No, sir.

Q. They went across the street quickly?—A. Yes, sir; in a hurry.

Q. You do not know that they were negro soldiers, but you inferred that they were negro soldiers because they were dressed alike?—A. I will not say anything about their being negro soldiers, but they were dressed alike, and from their dress I assumed that they were negro soldiers.

Q. I just want to get it. May I read the rest of this, now?—A. Yes, sir.

Q. The next question and answer are:

Q. How were they dressed?—A. I could not say positively; it was rather a dark night.

Is that correct?—A. I suppose so, if it is there.

Q. Continuing, you say:

but farther up the street, where I saw the marshal, I could see, because the light was on the corner, but right there at the hotel it was dark.

Q. Now, you state that you saw two negro soldiers. How do you know that?—A. Because they were dressed in different clothes from what a citizen would be wearing.

Q. What was the color?—A. I could not tell; it was dark.

Q. How do you know that they were dressed in different clothes?—A. I could see by the way their leggings and things showed that they were different.

Q. Were their clothes light or dark?—A. They did not show up so dark; but most of the people around here go in their shirt sleeves in the summer time.

Q. Did you see these men who crossed the street fire?—A. I did not see them, as they got in the dark, but after they got across the street they were firing from where they were.

That is all right is it?—A. Yes, sir.

Q. Leave it just as you have it there?—A. Yes, sir; I do not think it differs much, does it, Senator?

Senator FORAKER. Not a great deal. That is all.

By Senator FRAZIER:

Q. You did see flashes from the guns of these two men that were under the shed?—A. Yes, sir.

Q. Now, you speak of the time that intervened between the time you saw the lieutenant pass on his horse and the times these men came out. That was a very short time, was it?—A. From the time the lieutenant passed up?

Q. From the time the lieutenant passed up until the time you saw these men come out of the alley.—A. Two or three minutes, to the best of my recollection.

Q. You are simply estimating that?—A. It was a very short time. Everything was confusion there, and it might have been less and it might have been more.

Q. It might have been less or more?—A. Yes, sir.

Q. It was a short time?—A. Yes, sir; it was not a great while.

Q. Just before the lieutenant of police passed, had you heard shooting; and if so, where was that located, according to your best judgment?—A. It was approaching from down the alley. After the first volley the firing kept approaching, a part of it, toward the Miller Hotel, and it must have been down the alley.

Q. Did you hear any shooting in the immediate rear of the hotel just before the lieutenant of police passed?—A. No, sir.

Q. There was no shooting immediately before he passed?—A. No, sir; not right in the rear of the Miller Hotel, but there was shooting in the alley.

Q. There was shooting in the alley back of it?—A. Yes, sir.

Q. Then the lieutenant passed on his horse?—A. Yes, sir.

Q. And then a very short while after that you saw these two men pass out of the alley and cross the street?—A. Yes, sir.

Q. And you saw them shoot?—A. Yes, sir.

Q. That is, you saw the light?—A. I saw the flash of the guns.

Q. Then where was the next shooting, immediately after you saw the two men?—A. After they crossed Thirteenth street, then there was shooting on the side of Thirteenth street that the Miller Hotel was on.

Q. On that side of the street?—A. Yes, sir; I could smell the powder.

Q. Did you look out at those men?—A. No, sir; I was down behind the wall.

Q. You did not stick your head out?—A. No, sir.

Q. But you heard it distinctly under your window?—A. No, sir; I did not put my head out until the firing ceased, and then I saw this horse lying on Elizabeth street.

By Senator BULKELEY:

Q. Where did the lieutenant pass out of your sight? Did you see him when he dropped down?—A. No, sir.

Q. How far had he gotten when you saw him last?—A. After he got by my window I did not watch him any more.

Q. That was the last you saw of him?—A. Yes; after he got under my window.

Q. After he got under your window?—A. Yes.

By Senator FORAKER:

Q. And as soon as these two men commenced firing you did not see anything more?—A. No, sir; I dropped down. I did not want to see anything more.

Q. You say that the powder came up in your room?—A. Yes, sir; the smell of powder.

Q. That was from the firing of those two men?—A. No, sir; that was from the firing on the side of Thirteenth street that the Miller Hotel is on.

Q. It came from that?—A. Yes, sir.

Q. That is, the powder you smelled came from the firing down under you?—A. Which was after the firing done by those two men, after I dropped down.

By Senator LODGE:

Q. This light on Elizabeth street, which has been spoken of, threw a light into Thirteenth street?—A. Yes, sir.

Q. You are accustomed, of course, to seeing things by an artificial light, as an engineer?—A. Yes, sir; I have worked about half my life night times.

Q. Exactly. Now those lights, one on Washington street and one on Elizabeth street, did they illuminate Thirteenth street more or less—throw light in there?—A. A certain distance. If you were going toward them you could see anything. When I was a boy we didn't have any other kind of lights, North.

By Senator FORAKER:

Q. You could see the lights, but to what extent, from the lights, would it be made light enough to determine a man's features, or whether he was white or black?—A. That light on Elizabeth street is on the opposite side of the street from the Miller Hotel, and when Mr. Tillman came around the corner from Elizabeth street I could distinguish him plain. If I had known him, I could have told who it was. And that light goes a long ways, too.

Q. That light is about 60 feet from the corner there?—A. (Continuing.) It is just like an ordinary oil light on a locomotive—if it is a good light you can see three or four telegraph poles away.

Q. Suppose you were on Thirteenth street, with two or three men approaching you from Elizabeth street, could you tell who they were with that light?—A. If the men were between me and the light?

Q. Yes; if the men were between you and the light?—A. Yes, sir.

By Senator OVERMAN:

Q. If shining on the backs of the men—A. What is that?

Q. If the light was shining on the backs of the men, could you tell whether they were white or black?—A. If I was at the alley and there were two or three men between me and the light, I could tell who they were.

Q. Suppose that policeman was riding on his horse, as you saw him, and he turned back and looked at some men on Thirteenth street, coming around the corner of that alley, with the lights as they are placed could he tell, do you think, whether they were white or black?—A. I do not understand you.

Q. Suppose that policeman, as you saw him riding his horse there, had turned around and looked back at some men coming down Thirteenth street toward Elizabeth street from the alley, around the corner from that alley, could he have told whether they were white or black?—A. I think he could.

By Senator BULKELEY:

Q. Do you think he could tell a Mexican from a colored man—a light-colored negro—in that light?—A. A negro would have to be dark colored for you to tell him. There are light-colored negroes that it is pretty hard to tell.

Q. Now, that light at Elizabeth street was not powerful enough to cast the light down that street for 100 to 120 feet so that you could see these colored men across that street, was it?—A. Well, you take Elizabeth street from Twelfth and Thirteenth, you take a shed there—you take an awning there—it comes pretty close down, and it is dark there.

Q. You said it was so dark here that you could not see a negro right across, catcornered from your room; that you could not see those two men that came across there; than you could not see them after they went in under the shed.—A. I saw the men pass over, but I could not tell whether they were white men or negroes, because I was looking right down on them, and I could not see through their hats; but the lieutenant of police had a different view from what I had. He was down on the ground and I was up in the air.

Q. Did he have a hat on?—A. You mean the lieutenant of police?

Q. Yes.—A. I could not say.

Q. So that you could not tell whether the man that was on that horse was white or black, from what you saw?—A. I could not tell what?

Q. Could you tell whether the man on that horse was white or black?—A. When I first saw him he was between me and the light at Washington and Thirteenth streets.

Q. I am talking of when he passed your window, there, and you were looking down on him. Could you have told then whether he was white or black?—A. Well, I don't know.

By Senator FRAZIER:

Q. You did see distinctly, though, as he came between you and the light on Washington street, that he was a man on a white horse?—A. Yes, sir.

Q. That was farther off than he was when he got immediately under your window?—A. But in the first case he was between me and the light on Washington street.

Q. Yes. And when he came under the window you had to look down through his hat?—A. Yes, sir.

Senator FRAZIER. Exactly. The closeness does not make any difference. The question is whether the witness was looking through his hat or not.

By Senator SCOTT:

Q. Mr. Chace, do you know of your own personal knowledge what motive these colored men had for shooting up and killing the people in Brownsville?—A. No, sir; I was only in Brownsville just in the nighttime, for my rest.

Senator SCOTT. That is all.

(Witness excused.)

TESTIMONY OF JOSEPH BODIN.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Your name in full is Joseph Bodin, is it not?—A. Yes, sir.

Q. What is your business, Mr. Bodin?—A. Railroad fireman—locomotive fireman.

Q. Whom do you run with?—A. I am running with Johnny Ginn, now.

Q. With whom were you running in August of last year?—A. Mr. C. B. Chace.

Q. Mr. Chace, the witness who was just before us?—A. Yes, sir.

Q. How long have you been a fireman?—A. I have been firing about two years and a half.

Q. On what road?—A. The St. Louis, Brownsville and Mexican Railway.

Q. Running between what points?—A. Well, running different points. The railroad runs from Brownsville to Bay City.

Q. Where was your headquarters?—A. Kingsville.

Q. And you often, when running on the railroad, would be brought in to remain over at Brownsville?—A. During the summer, every other day.

Q. During the summer, every other day?—A. Yes, sir; last summer. Now, we get in there every fourth day.

Q. I will ask you directly, in order to avoid wasting time. You remember what is spoken of as the shooting up of Brownsville, on the night of August 13 last?—A. Yes, sir.

Q. Where were you that night?—A. I was in Brownsville.

Q. Where were you stopping?—A. At the Miller House—the Miller Hotel.

Q. What floor of that hotel were you on?—A. On the third floor.

Q. What was the first you heard of that shooting; that is, were you awake when it commenced, or were you aroused by the shooting?—A. I was aroused by the shooting.

Q. You were waked up by the shooting?—A. Yes, sir.

Q. What was the character of the first shooting you heard, Mr. Bodin?—A. Well, I first heard several shots in the direction of the barracks.

Q. And then what?—A. It came by volleys, and so on. It was first the first shot that waked me up, and then I heard a volley or two, and so on.

Q. Did that shooting come up into the town from the direction of the fort?—A. Yes, sir.

Q. Did you remain upstairs in the Miller Hotel?—A. Yes, sir.

Q. You did not go down at all?—A. No, sir.

Q. Did you occupy the same room that Mr. Chace occupied?—A. No, sir.

Q. But you were on the same floor?—A. Yes, sir.

Q. This shooting came on uptown. Just describe how you heard it, and the number of shots, approximately, as you can, before it got up in the neighborhood of the Miller Hotel.—A. I could not state exactly the number of shots that I heard. I heard several shots. I guess I heard it about a block or two from the hotel, and it came toward the hotel.

Q. Where did that shooting seem to be?—A. Toward the post.

Q. You know where Elizabeth street is?—A. Yes, sir.

Q. And Washington street?—A. Yes, sir.

Q. The Miller Hotel is on the corner of Thirteenth and Elizabeth streets?—A. Yes, sir; the corner of Thirteenth and Elizabeth streets.

Q. Then there is an alley between Washington and Elizabeth streets? You know where that alley is?—A. Yes, sir.

Q. Where was that shooting with reference to that alley? Where did it seem to be?—A. Coming in the alley, it seemed to be.

Q. From what direction?—A. From the direction of the post.

Q. And toward the Miller Hotel?—A. Toward the Miller Hotel; yes, sir.

Q. Was there any shooting at the Miller Hotel?—A. Yes, sir.

Q. Just go on and describe that, as near as you can.—A. The shooting at the Miller Hotel?

Senator OVERMAN. Tell all that you saw.

By Senator WARNER:

Q. Tell just what occurred there—what you saw and what you heard.—A. All right, sir. While they were doing the shooting around the Miller Hotel I was in the window, and while I was at the window I heard the footsteps of a horse coming from Washington street toward me, and I looked and saw a horse coming with a man on him, and just as I heard him coming I heard the shots, and they were shooting at him as he passed under me, going toward Elizabeth street, and when he got to Elizabeth street the horse fell, and I leaned over to see what became of the man, and of course I didn't see him any more; and about that time I heard some shooting again on the corner, and I looked and I saw two men dressed in United States uniform crossing the street, and just as they got about maybe 10 feet from the far side of the alley—the far side from where I was—they turned back and fired in my direction, and then I went in and didn't come out no more.

Q. You didn't come out any more?—A. No, sir.

Q. Now, how do you say those men were dressed?—A. They were

dressed in brown clothing—United States clothing. We would oftentimes sit in the Miller House and see them pass. It was a light brown.

Q. Did you form an opinion then as to whether they were soldiers or not?—A. Yes, sir.

Q. Did you have any doubt then as to their being soldiers?—A. According to the clothes they wore; no, sir.

Q. Have you ever had any doubt since?—A. No, sir.

Q. Where was the window that you were looking out of? You do not know where Mr. Chace was looking out—the window at which he was looking out?—A. No, sir.

Q. You did not see him?—A. No, sir.

Q. But where was your room with reference to Mr. Chace's room?—A. Both windows faced Thirteenth street.

Q. Both windows faced Thirteenth street?—A. Yes, sir.

Q. Which room was nearest the alley?—A. Which room was nearest the alley?

Q. Yes.—A. His.

Q. Does the Miller Hotel extend back to the alley?—A. Yes, sir.

Q. And about how far was your room from the rear end of the Miller Hotel?—A. My room from the rear end of the Miller Hotel was about 25 or 30 feet.

Q. About 25 or 30 feet?—A. Yes.

Q. You could see distinctly the character of the uniforms, and you think they were soldiers' uniforms?—A. Yes, sir.

Q. You saw those two men shooting?—A. I saw the flash of one gun just as they were shooting toward me.

Q. Then what other shooting did you hear there? Go right on.—A. Then, it seemed to me, they left the alley. They went from me toward the town again, and I heard shooting maybe a half block away, and it seemed to be where the shooting ceased then.

Q. About how many shots did you hear around the Miller Hotel?—A. I can not say exactly.

Q. Well, about how many?—A. Oh, several; maybe twenty-five. I don't know exactly, but several.

Q. A good many?—A. Yes; a good many.

Senator OVERMAN. Twenty-five, he says.

The WITNESS. Yes; a good many shots.

By Senator WARNER:

Q. What was the condition of excitement in the hotel there, if you heard, with reference to the women who were boarding there? Were they shouting and screaming?—A. I heard a whole lot of screaming; yes, sir. I do not know who was doing the screaming; who was doing the hollering.

Q. The hollering was in the building?—A. Yes; there was hollering going on down there.

Q. You are not a married man?—A. No, sir.

By Senator OVERMAN:

Q. Where is your home?—A. That is, now?

Q. Where did you come from; what State?—A. From Louisiana.

By Senator WARNER:

Q. After this man passed down by the alley, you saw his horse fall, you say?—A. That man was on Thirteenth street.

Q. He came down Thirteenth street toward the alley?—A. Yes, sir.

Q. And you noticed the color of that horse, did you?—A. Yes, sir.

Q. When was it that you first saw the man on horseback?—A. I saw him coming down from Washington street.

Q. How near Washington street was he when you first saw him?—A. About halfway between Washington street and the alley.

Q. You didn't see him, then, when he turned into Thirteenth street from Washington street?—A. No, sir.

Q. He had gotten halfway down before you saw him?—A. He was halfway when I saw him.

Q. That is, halfway from Washington street to the alley?—A. Yes, sir; maybe two-thirds of the way. I don't know exactly.

Q. Did you go downstairs at all that night?—A. No, sir.

Q. Why not?—A. I just didn't feel like it.

Q. Well, did you think it was entirely safe?—A. No, sir; not a bit. I thought I was safer in staying in my room.

Q. At that time, there, in the morning, when you got up and went down, did you notice the marks of any bullets on the Miller Hotel?—A. Yes, sir.

Q. What did you notice with reference to that?—A. I saw several shots that had struck the window where I was standing, in there, and I guess about four or five shots struck that building, and some shots struck what is known as the King Building, on the far side of the street.

Q. The King Building, just across the street from the Miller Hotel?—A. Just opposite, yes; that is, across Thirteenth street.

Q. Is it a frame building or a brick building?—A. A brick building.

Q. The Miller Hotel is a brick building?—A. Yes, sir.

Q. How near, if at all, did those bullets strike to where you were standing in the window?—A. Sir?

Q. How near did those bullets strike to where you were standing in the window?—A. Oh, about 2 feet; maybe 2 feet and a half.

By Senator OVERMAN:

Q. Was there a light in your room?—A. No, sir.

Senator WARNER. That is all I care to ask.

By Senator FORAKER:

Q. Did you see the lieutenant of police and his horse at the time when the horse was killed?—A. I do not know whether it was the lieutenant that was on that horse; but, yes, I saw the horse and the man both.

Q. You saw the man go by on horseback, on a white horse?—A. On a gray horse.

Q. And if that was the lieutenant of police, you saw him at the time his horse was shot under him?—A. Yes, sir.

Q. That was down at the corner of Elizabeth and Thirteenth streets?—A. He fell on Elizabeth and Thirteenth; yes, sir. He fell on Elizabeth street.

Q. And you first saw that man on that gray horse when they were about half way between Washington street and the alley, coming from Washington street on Thirteenth street?—A. Yes, sir.

Q. You kept your eyes on that man and on the horse until he was shot, did you?—A. Yes; until the horse fell.

Q. You watched him all the way?—A. Yes, sir.

Q. What made you watch him?—A. I just wanted to see what was going to become of him.

Q. What attracted your attention?—A. It seemed that by looking at him I could see bullets striking fire, like that [witness indicating by snapping his fingers]; bullets hitting the building on the far side of the street, and it looked like somebody was shooting at him.

Q. It looked like somebody was shooting at him?—A. Yes, sir.

Q. And you were watching to see if he got hit?—A. Yes, sir.

Q. At that time were they shooting around the Miller Hotel?—A. Yes, sir.

Q. When he came in sight?—A. Yes, sir.

Q. Where were they located when they were doing that firing?—A. They seemed to be in the alley.

Q. No one had as yet come up out of the alley?—A. I could not say. I was not looking down, directly down.

Q. What?—A. No, sir.

Q. You had not seen anybody up to that time?—A. No, sir.

Q. And you had not seen any of the shooting?—A. No, sir.

Q. You saw the man when he crossed past the alley, on Thirteenth street?—A. Yes, sir.

Q. At what gait was he going?—A. He was going about a medium gait. His horse was on the trot.

Q. On the trot?—A. Yes; just about on the trot; maybe loping; a pretty good gait.

Q. He may have been loping?—A. Yes, sir.

Q. Do you know whether he was loping or trotting?—A. No, sir; he was going at a pretty good gait.

Q. A pretty good gait?—A. Not very fast.

Q. That you remember very well?—A. Yes, sir.

Q. Had any shots struck the Miller Hotel up to that time, on your side?—A. Not that I know of.

Q. Not that you know of?—A. No, sir.

Q. It was after he went by that these shots were fired that struck the hotel?—A. Yes; that struck the hotel.

Q. Did he keep going at this rapid gait, trotting or loping, whichever it may have been, until he was hit?—A. Yes; until I saw him fall.

Q. Until you saw him fall?—A. Yes, sir.

Q. How long was it after he passed the alley until you saw somebody come out of the alley?—A. I judge maybe a minute and a half; maybe a minute; maybe not that much—in that neighborhood; immediately after his horse fell.

Q. Did you see the men fire at him—the men who shot his horse?—A. No, sir.

Q. You did not see them?—A. No, sir.

Q. You were watching him?—A. Yes, sir; I was watching him.

Q. Do you know whether or not the men who fired at him were the first ones out of the alley or not?—A. No, sir; I do not.

Q. When was it you saw two men come out of the alley?—A. Directly after his horse fell.

Q. Directly after his horse fell?—A. Yes, sir.

Q. After his horse fell—A. I looked over.

Q. You then turned to the right?—A. Yes, sir.

Q. Were they not before that time firing right under you in Thirteenth street?—A. I guess so. They were firing in the alley, in that direction; yes, sir.

Q. They could not fire from the alley so as to hit him down on Elizabeth street, unless they had first come out of the alley onto Thirteenth street?—A. They might have been just under the building, you know; yes, sir [witness indicating]. They might have been on the sidewalk; I don't know.

Q. Here is the alley [indicating on map].—A. Yes, sir.

Q. And when you saw him he was coming down Thirteenth street from Washington street?—A. Yes, sir.

Q. And was he coming in a trot when you first saw him?—A. Yes; I could hear the footsteps of the horse. He was coming a pretty good gait.

Q. Was there anybody with him?—A. I didn't see anybody.

Q. He was alone?—A. Yes, sir.

Q. And you saw him before he got to the alley?—A. Yes, sir.

Q. And when he got down here, to that point on Elizabeth street and Thirteenth street, where his horse was shot and fell?—A. Yes, sir.

Q. And up to that time you did not see any men doing any firing?—A. No, sir.

Q. Nothing at all?—A. Nothing at all.

Q. After that horse had been killed, then you took your eyes off of him?—A. Off of him.

Q. And turned to the right in time to see two men come out?—A. Yes, sir.

Q. And the two men you saw came out and ran across?—A. Yes, sir.

Q. To what corner?—A. They just crossed the street.

Q. Ran across Thirteenth street?—A. Yes, sir.

Q. To which corner? Did you see them after they stopped?—A. When I saw them stop they turned toward me and fired.

Q. Fired toward you?—A. Fired in my direction; yes, sir.

Q. But they had been firing right there under you before that time?—A. There had been some shooting going on there; yes, sir.

Q. When they came out of the alley onto Thirteenth street and fired and killed the horse of the lieutenant of police, did you not look down then, to see who it was?—A. No, sir; I was looking directly towards the horse.

Q. You were looking directly at the horse?—A. Yes, sir.

Q. Now, these two men that fired at you, were they the only men that fired at you?—A. They were the only two men I saw that fired at me.

Q. Did you see some citizen come in off of Elizabeth street at the corner of Thirteenth and come up toward Washington on Thirteenth street?—A. No, sir.

Q. Mr. Chace testified that he saw Mr. Tillman, the saloon keeper, come around the corner of Thirteenth street and come up that way. You did not see him?—A. No, sir.

Q. Did you hear anyone cry out any orders?—A. That is what I was just going to say. I heard some one holler out down there. I don't know where.

Q. You just heard a voice?—A. Yes, sir; I was excited and didn't notice where it came from.

Q. You were so excited that you did not notice what that loud voice was saying?—A. I didn't notice where it was from.

Q. Were you so excited that you missed anything that happened?—A. No, sir; I did not. I saw a whole lot that was happening.

Q. You saw everything that happened, you think?—A. Yes, sir.

Q. Did you see anybody else except these two soldiers, of the firing party?—A. That is all I saw of that firing party.

Q. When they came out of the alley and went across to this point and fired from there at you, was there still firing going on down on Thirteenth street, where the horse was?—A. There was firing in the alley, then.

Q. Into the back of the hotel?—A. Yes, sir.

Q. But was there any on Thirteenth street?—A. No, sir.

Q. You did not see it?—A. No, sir.

Q. You did not see anything of that kind?—A. No, sir.

Q. Where were the men standing that killed the horse and wounded the lieutenant?—A. All the shots, it seemed to me, came from the alley and the corner of the alley.

By Senator FRAZIER:

Q. When you say "the alley" you mean that alley between Elizabeth and Washington streets?

By Senator FORAKER:

Q. They could not hit you if they were still in the alley, could they?—A. Standing at the corner of that alley and Thirteenth street they might.

Q. They must have been out there somewhere, out of the mouth of the alley?—A. Oh, yes, sir.

Q. Whether they were under your window, you do not know?—A. No, sir.

Q. If they had been shooting right down under your window, you would have noticed it, would you not?—A. I don't know whether I would or not.

Q. You had a screen in your window?—A. No, sir. It was a great big window like this [indicating]. Those windows reach a man right up here, and they are that wide [indicating].

By Senator WARNER:

Q. When you say "right up here," you mean they were way up to your shoulders?—A. No, sir; this high, about [indicating].

By Senator FORAKER:

Q. Up as high as your breast?—A. Yes, sir.

Q. The window sill was up as high as that?—A. Yes, sir.

Q. How wide were those windows?—A. I don't know; they are pretty wide; 4 feet, I guess.

Q. Did you smell any powder; did any come up in your room?—A. No, sir; I did not.

Q. You did not smell anything?—A. No, sir.

Q. Your room was 25 or 30 feet from the alley?—A. Yes, sir.

Q. And where was Mr. Chace's room?—A. Between mine and the alley.

Q. Between you and the alley?—A. Yes, sir.

Q. Mr. Chace testified a while ago that his room was about 40 feet from the alley. Does that change your recollection about it? I only want to get at what the fact may be.—A. Of course we never measured those things. A person would have to go and measure those things to know exactly, but it seemed to me it was about 25 or 35 feet from my window to the corner of the building.

Q. And you think Mr. Chace was between you and the alley?—A. Yes, sir; I know he was between me and the alley.

Q. So that he would be right on the corner, would he not?—A. No, sir; there were a couple of other rooms between us.

Q. A couple of other rooms between you?—A. Yes, sir.

Q. They must have been pretty small rooms, then?—A. Not very large rooms.

Q. If there were two between you and the alley, and Mr. Chace's room also—A. Oh, they are not so large. They would have to be only 10-foot rooms, you know.

Q. Yes, I understand. I am only trying to help you in order to locate just where you were.—A. Of course I am only estimating; I never measured it.

Q. You do not know whether it was 25 or 30 feet or 40 or 50 feet, as Mr. Chace says?—A. No, sir.

Q. You know you were somewhere along on this Thirteenth street side?—A. Yes, sir.

Q. You did not see anybody at all with the lieutenant of police; when you saw him coming he was alone?—A. Yes; as far as I could see.

Q. You did not see a couple of policemen walking in the street with him?—A. No, sir.

Q. Or on the sidewalk?—A. No, sir; I did not.

Q. And you did not see any policemen at all that night, did you?—A. No, sir; I did not see any policemen. I never did go out that night.

Q. And, as I understand, you did not see Mr. Tillman?—A. No, sir.

Q. And you did not see anybody, soldier, raider—A. No, sir; except the man on the horse and the two soldiers.

Q. Three persons, all told?—A. Three, all told.

Q. The lieutenant and his horse in one party, and then two soldiers, as you think they were, together. Now, you are perfectly positive about that, are you?—A. Sir?

Q. You are perfectly positive about that?—A. Sir?

Q. You are perfectly positive that you have got this all right?—A. Yes, sir.

Q. You gave your testimony before Mr. Purdy, did you not?—A. Yes, sir.

Q. I will read from that testimony, at page 94, part 2, of Senate Document 155, as follows:

During that time—maybe four or five minutes afterwards—I heard a horse coming up Thirteenth street. Then when I heard the horse I looked up the street, and about that time I heard the firing from that corner at the rear of the Miller Hotel. The horse passed and two men were following on foot, but the men did not come up to the corner of the alley; the horse kept right straight on and fell in Elizabeth street; when he fell I leaned over to see what became of the man that was riding him, and about that time I heard something hit the building and I looked and saw two soldiers pass Thirteenth street on the far side, and when I saw them I knew there was something doing and I stuck my head back in my room.

Now, is that statement correct?—A. I do not remember that I said anything about two men; only the horse.

Q. You did not make that statement before him?—A. No, sir.

Q. At the conclusion of this testimony is the following certificate, signed and sworn to by you:

THE STATE OF TEXAS, *County of Cameron, ss:*

Joseph Bodin, being first duly sworn, deposes and says that he has read the foregoing testimony by him subscribed, and that the same is true of his own knowledge, except as to those matters therein stated upon information and belief, and that as to those matters he believes them to be true.

JOSEPH BODIN.

You did read that over, did you, before you signed it and swore to it?—A. Yes, sir.

Q. If that statement is in there as I read it, do you want to qualify it or do you want to leave it as it is?—A. Leave it as it is.

Q. What?—A. You better leave it as it is, I say, because I don't remember seeing the two soldiers and the two men, and I don't remember saying it.

Q. You do not remember seeing it and you do not remember saying it?—A. No, sir.

Q. Then, if you have no recollection about it, you do not want to change your testimony from what it is to-day, do you?—A. No, sir.

Q. You do not want to say that you saw two men if you did not see them?—A. No, sir.

Senator WARNER. He has testified that he saw two soldiers.

Senator FORAKER. I know, but in this testimony before Mr. Purdy he says that he saw two men first with the man on horseback and then saw two soldiers afterwards.

Senator TALIAFERRO. He says that he saw two men following the man on horseback. Were not they the soldiers that he refers to?

The WITNESS. Walking with the horse? No, sir; I saw no two men walking with the horse.

Senator FORAKER. In his testimony before Mr. Purdy he speaks of these two men walking with the horse and then of two soldiers coming afterwards.

Senator WARNER. The statement will show for itself.

Senator FORAKER. Yes; it will show for itself.

By Senator FORAKER:

Q. Mr. Bodin, there is not any street lamp down there about the alley where it crosses Thirteenth street, is there?—A. No, sir.

Q. This was at midnight?—A. Yes, sir.

Q. And there were no lights around there?—A. Except in one room, and I think that was a candlelight.

Q. And that would not be any light that shone down on the street at all?—A. No, sir.

Q. And yet you think you could see well enough to determine what color of clothes those men were wearing?—A. Yes, sir.

By Senator OVERMAN:

Q. Did you say you had no doubt about there being two soldiers?—A. No, sir; I have not any doubt about its being two soldiers.

By Senator FORAKER:

Q. No; you have not any doubt about its being two soldiers; but what I want to know is whether it was light enough for you to look

out of that window that night, without any street light in that vicinity, and tell how those men were dressed?—A. Yes, sir.

Q. You could see that without any trouble?—A. Yes, sir.

Q. Did you see the flash when they fired?—A. Yes, sir; they fired towards me.

Q. And you saw the flash?—A. Yes, sir.

Q. They were on the northeast corner?—A. Yes, sir; on the far side of the street.

Q. When you saw the flash from the gun, did that light up the men so that you could see the men, too, and their clothes?—A. I never noticed them, whether I could or not.

Q. That was instantaneous, was it not—the flash?—A. Yes, sir.

Q. It would be almost impossible for the eye to catch it?—A. I don't know; I never tried that.

Q. But you were looking right at them when the guns were fired?—A. Yes, sir.

Q. And if the flash of the guns had been sufficient to light up the clothing of these men you would have seen it, would you not?—A. Well, I could see their clothes before the flash of the gun, for that matter.

Q. Yes. Were they under a shed, over there?—A. No, sir; there was no shed there.

Q. Is there or not a sort of shed there under which they were?—A. No, sir.

Q. If anybody has testified to that, that is a mistake, is it?—A. Yes, sir.

Q. There was no awning, was there?—A. There was no awning on the King Building at all.

Q. None on the King Building?—A. None on the King Building.

Q. Is there not an awning over here on Elizabeth street, up as far as the King Building goes on the alley?—A. On the King Building?

Q. Yes. Is that the King Building where I am pointing [indicating on map]?—A. Yes, sir.

Q. Well, is there not an awning along there?—A. No, sir; no awning. There is a gallery away up high.

Q. A gallery away up high?—A. Yes, sir.

Q. And then when you pass the alley and go along the other block, that is all built up solid, is it?—A. Yes, sir.

Q. What do you mean by a gallery—you mean a porch?—A. Yes, sir; a gallery up there—a veranda.

Q. They call them verandas down there?—A. Yes, sir.

Q. When you pass this alley going toward Washington street on the left-hand side, is there not an awning there?—A. On the King Building?

Q. No; on the next building?

Senator FRAZIER. Between the alley and Washington street?

A. There is a little plumbing house there—a plumbing shop; yes, sir. I think it is a kind of a frame there.

By Senator FORAKER:

Q. Is there not also an awning here, coming out over the edge of the alley from this building under which these men stood when they fired [indicating]?—A. I do not think there is anything there; not on that little frame building toward the alley.

Q. None there?—A. No, sir; no, sir.

Q. You saw the flashes distinctly?—A. Yes, sir.

Q. But you can not tell whether they lighted up sufficiently so that you could see the men and their clothing?—A. No, sir; but they were not on Thirteenth street yet. They were pretty near the sidewalk—what you call the sidewalk.

Q. Over toward that northeast corner?—A. Yes, sir.

Q. When they turned and fired?—A. Yes, sir.

Q. Did they point their guns up at you?—A. Yes, sir.

Q. Did you see them point their guns?—A. Yes, sir.

Q. You saw them point the guns before they fired?—A. The gun was pointed up until he fired.

Q. And still you stood there looking at them until they fired?—

A. It was done so quick you couldn't think about it. Then I got down.

Q. You got down right away afterwards?—A. Yes, sir.

Senator FORAKER. I believe that is all.

By Senator WARNER:

Q. Just one question, so that we will understand about this awning business. You spoke of a gallery. The King Building is just across the street from the Miller Hotel, and the rear of that, you said, had a gallery. What do you mean by a gallery?—A. You mean the rear of the building?

Q. Yes.—A. No; not the rear of the building, but the side of the building.

Q. Yes; the side of the building.—A. They had a little gallery up there, about 2 or 3 feet.

Q. How high is the floor of that gallery up?—A. About 12 or 14 feet from the ground, I guess.

Q. You would not attempt to say exactly?—A. No, sir.

By Senator OVERMAN:

Q. The floor of that gallery is about 2 or 3 feet, you say?—A. Two or 3 feet.

By Senator BULKELEY:

Q. Where were you when you saw these men firing?—A. In my room.

Q. You had not gone into Mr. Chace's room?—A. I had already gone, and come back.

Q. Was your room a better place to observe from than Mr. Chace's room?—A. I do not know whether it is or not.

Q. Could you see any plainer on that corner that night from your room than from Mr. Chace's room?—A. I don't know whether I could or not.

Q. You looked out of both of them?—A. I didn't have occasion to look out of his.

Q. You did go in his room?—A. I went in his room; yes, sir.

Q. Had you not been in his room before?—A. Yes, sir; I had been in his room before.

Q. Had you not looked out of the window?—A. I do not know whether I did or not. I had slept in the room myself, but I don't know whether I ever looked out of the window or not.

Q. You had slept in the room yourself?—A. Yes, sir.

Q. But you don't remember whether you looked out of the window or not?—A. No, sir.

Q. The window in his room is the same character of window as that in your room?—A. Yes, sir.

Q. And his room is nearer the corner than your room?—A. Yes, sir.

Q. So that it is a fair supposition that you could see as plainly, or better, from his window than from your window?—A. Yes, sir; as far as that goes.

Q. It was nearer, anyway?—A. Yes, sir.

Q. Would it be likely, if he could not see any men there, that you could see them? Would it be a defect in his eyes?

Senator FRAZIER. He did not say that he could see any men there.

Senator BULKELEY. Mr. Chace said that he could not. He said they went into the dark, and he could not see them when they got over to this corner. They went into the dark, and he could not see them.

(The pending question was read by the stenographer, as follows:)

Q. Would it be likely, if he could not see any men there, that you could see them? Would it be a defect in his eyes?

Senator WARNER. I submit that that is not a proper question.

Senator BULKELEY. Did he have, from his window, a better opportunity to observe what was going on on this corner than Mr. Chace, who was nearer, was my question, and he said he thought Mr. Chace's window was the best window to see from.

The WITNESS. Wait, wait a minute.

Senator BULKELEY. That is all.

By Senator FORAKER:

Q. You have not been very definite about just where your room was located. You said that it was 25 or 30 feet, as you remember it, from the alley; but you afterwards qualified that and said that it might be 30 or 40 feet.—A. Yes, sir; in that neighborhood. I don't know exactly.

Q. Did not your room front on Elizabeth street?—A. On Elizabeth street?

Q. Yes.—A. No, sir.

Q. Before you answer, let me call your attention to another passage in your testimony before Mr. Purdy. This is not to confuse you, but to get the fact:

After I was aroused I did not know what could be happening, and I went to the next room. Mr. Chace's, and asked him what could be the matter, and he says, "I don't know." Then I stayed there awhile and the firing was in this direction [indicating], the direction of the garrison. I did not know what to do, so I stayed there for awhile and found out that everything was pretty cool and went back to my room and was standing in the window looking out on Elizabeth street.

A. Not Elizabeth street; it was Thirteenth street.

Q. That ought to be Thirteenth street?—A. Yes, sir; it ought to be Thirteenth street.

Q. He could stand there and look out on Elizabeth street, where he was, at the corner?—A. Yes, sir.

Senator WARNER. We all know, as lawyers, that in taking down evidence such things as that will sometimes occur.

By Senator FORAKER:

Q. I will read further from this testimony:

During that time—maybe four or five minutes afterwards—I heard a horse coming up Thirteenth street. Then, when I heard the horse, I looked up the street, and about that time I heard the firing from that corner at the rear of the Miller Hotel.

Senator BULKELEY. I only wanted to see what advantage, if any, this witness had over Mr. Chace.

By Senator FRAZIER:

Q. Now, Mr. Bodin, I will get you to answer a question for me, if you please, sir. When you saw the lieutenant come down on his horse and pass the alley, just after he passed the alley, did you hear shooting, as if some one were shooting at him?—A. Yes, sir.

Q. You could not at that time, as I understand you, see the men who were doing the shooting at him?—A. No, sir.

Q. But the shooting was near the mouth of the alley, where the alley comes into Thirteenth street?—A. Yes, sir.

Q. And as he passed on, you were following him with your eyes?—A. Yes, sir.

Q. And then after he passed, and after you heard the shots, which you supposed were being fired at him, you saw these two men come out of the alley onto Thirteenth street?—A. No, sir; I did not see those men until after the horse fell.

Q. You did not see those men until after the horse fell?—A. No, sir; not until after the horse fell.

Q. Did the two men you saw come out and go across Thirteenth street, go to the rear of the King Building, or were they on the other side of the alley, toward Washington street?—A. They were just about in the middle of the alley.

Q. Just about in the middle of the alley, and partly across Thirteenth street?—A. Partly across Thirteenth street is right.

Q. Not entirely across?—A. Not entirely across.

Q. Were they in plain view of you?—A. In plain view of me.

Q. And you could see them distinctly?—A. Yes, sir.

Q. You did see them?—A. Yes, sir.

Q. And you say they had on the uniform of the soldiers?—A. Yes, sir.

Q. Did they have on hats, do you recollect?—A. Yes; they had hats on.

Q. Did you notice whether they had on leggings?—A. No, sir; I did not notice whether they had on leggings.

Q. You did not notice whether they had on leggings?—A. No, sir.

Q. But you did notice that they were dressed alike?—A. Yes, sir.

Q. And had on uniforms?—A. Yes, sir.

Q. Could you tell whether they were negroes or white men?—A. Yes, sir; they were dark.

Q. They were dark?—A. Yes, sir; they were in the shade of their hats, but they looked dark.

Q. Dark in the face?—A. Yes, sir.

Q. You could not tell whether that darkness came from the shadow of the hats or whether they were negroes—black men?—A. No, sir.

Q. But they did look dark in the face?—A. Yes, sir.

Q. Did they have guns?—A. Something that seemed like a gun in their hands.

Q. When they fired up toward you, could you see distinctly the guns?—A. Yes, sir; they had guns, all right.

Q. And when you saw them turn and fire toward you you jumped down behind the window sill, as I understand?—A. Yes, sir.

Q. And then you did not look up any more?—A. No, sir.

Senator FRAZIER. That is all I wanted to ask you.

By Senator FORAKER:

Q. They had broad-brimmed hats?—A. Their hats seemed to be about 3½-inch brims.

Q. Three and a half or 4 inches?—A. Yes, sir.

Q. You were up in the third story?—A. Yes, sir.

Q. Looking down?—A. Yes, sir.

Q. Do you think you could see their faces at all, looking down in that way?—A. Yes, sir; I could see them.

Q. They went quickly, did they not, after they came out of the alley?—A. They walked.

Q. You stated a moment ago that they passed over quickly, and whirled around and shot so quick that you couldn't get out of the way?—A. They shot quickly.

Q. And they went quickly from one place to the other?—A. Yes, sir; they walked quickly.

Q. They were not tiptoeing, were they?—A. I don't know about that—tiptoeing.

Q. I asked you that question because some other witness testified to it.—A. Yes, sir.

By Senator LODGE:

Q. These two men we have been speaking about so much, were they dressed alike?—A. Sir?

Q. The two men, the two soldiers, were they dressed alike?—A. Yes, sir.

Q. But you do not know whether they were white men or not?—A. No, sir.

By Senator SCOTT:

Q. Do you know of any reason that these soldiers had for killing the bartender and shooting the arm off of this lieutenant of police?—

A. No, sir.

Senator SCOTT. That is all.

(Witness excused.)

TESTIMONY OF A. N. McKAY.

(The witness was sworn by Senator Scott.)

By Senator WARNER:

Q. What is your name, in full?—A. A. N. McKay.

Q. What is your age?—A. I am 39.

Q. What is your business, Mr. McKay?—A. I am a banker.

Q. At what point?—A. Laporte, Tex.

Q. How far is that from Brownsville?—A. It is in the vicinity of 400 miles. It is between Houston and Galveston.

Q. How long have you lived in Texas?—A. About five and a half years; nearly six years.

Q. Where did you live prior to that time?—A. In Iowa and Dakota.

Q. Are you a native of Iowa?—A. I was a native of Illinois, but I moved to Iowa when I was a year old.

Q. And then after you became a man, you went to Dakota?—A. Yes, sir; I went to Dakota in 1891.

Q. And from there, after staying there a number of years—A. Yes, sir; I was in Dakota for ten years.

Q. You went to Texas?—A. Yes, sir.

Q. Your business calls you at times to Brownsville?—A. We are interested in a lumber business at Brownsville, and I go down about once a year.

Q. What is your bank?—A. Preston & McKay. It is a private bank.

Q. You are one of the firm?—A. I am one of the partners.

Q. And you also do a lumber business at Brownsville?—A. Yes, sir.

Q. And at other points in Texas?—A. No, sir.

Q. Did you happen to be at Brownsville at the time of what is termed the shooting up of the town on the 13th of last August?—A. Yes, sir; I arrived there that evening about 5 o'clock.

Q. Where did you stop?—A. I stopped at the Miller Hotel.

Q. What floor were you on?—A. On the second floor. I had a front room, facing Elizabeth street.

Q. Your room fronted on Elizabeth street?—A. Yes, sir.

Q. Now, Mr. McKay, the evidence is, I think, that there is a wide court through that hotel; it is built on the southern, Mexican, style?—A. Yes, sir.

Q. So that there would be one part of the hotel on one side of the court on one street, and the other part of the hotel on the other, for ventilation?—A. My room was in the part towards the court.

Q. So that it was in that part of the hotel away from the street?—A. Yes, sir.

Q. So that your room did not look out on the street in front?—A. No, sir.

Q. Will you tell us in your own way what you heard there that night about the shooting?—A. I had been talking with the manager of the lumber yard until about 11 o'clock, I think, at which time I retired. It was a warm night, and I did not go to sleep immediately, but I think I was in a light doze when I heard severe firing.

By Senator FRAZIER:

Q. Where? In what direction?—A. It seemed to me to come from Fort Brown.

By Senator WARNER:

Q. That is, from that direction?—A. Yes, sir. The impression I had was that it was merely some salute of some kind over in the fort. I was not particularly familiar with the customs and habits of military forts, and that was the impression that came to me.

Q. What is your age?—A. Thirty-nine.

Q. Proceed.—A. Very soon after I heard the first firing the bugle calls began. I am not acquainted with the bugle calls, either, and

hence could not interpret the meaning of the bugle calls, but as I remember it they continued almost incessantly during all of the firing. The firing seemed to be fiercest over in the vicinity of the fort, and then it came up the alley back of the hotel—the Miller Hotel—and apparently went on up the alley. At least it went up in that direction.

Q. When you say it went up the alley you mean toward Twelfth street, do you, the Miller Hotel being on Thirteenth street?—A. It went towards Twelfth.

Q. Up toward Twelfth?—A. Yes, sir.

Q. About how many shots were fired there at the Miller Hotel—at that neighborhood—I do not mean striking the hotel, but how many were fired there?—A. That would be impossible for me to estimate, but they were not so fierce as they got further up town.

Q. When you heard that shooting, were you impressed as to the fact whether or not it was soldiers doing the shooting, or what it was; and if so, what was it that impressed you?—A. I supposed, of course, it was the soldiers. In the first place the sounds appeared to start from Fort Brown; and then the character of the report impressed me as not being that of an ordinary rifle or sporting gun. It was a sharp, incisive report. I have seen and heard military companies on parade, and it seemed to me to be the same sharp and incisive report. I am not positive, but I think there were one or two volleys; that is, they seemed to be firing together; but the most of the firing was at random.

Q. As I remember, you testified before Mr. Purdy and others that you did not see any of the parties.—A. I did not see them; no, sir.

Q. We will waste no time on that, then. Now, there was considerable excitement there at the hotel that night, was there not?—A. A great deal. I was not alarmed at first at all, but the people in the hotel, especially the women and children—

Q. Were screaming?—A. Were screaming, and were hysterical. It seemed to me that it was needless; but I did not appreciate, really, what was going on, at the time.

Q. You did not appreciate the danger as they seemed to?—A. No, sir. I had just arrived that night.

Q. Did you go down into the street at all that night?—A. I did not go onto the street. There was a veranda in front of my room and I went out on the veranda.

Q. That was, I assume, after the shooting was over?—A. Yes, sir. When I went out on the veranda I saw the horse which was said to have been shot under the sergeant of police lying in the street dead.

Q. That horse was near the corner of Elizabeth and Thirteenth streets?—A. A little above Thirteenth, as I remember it.

Q. In Elizabeth street?—A. In Elizabeth street; yes, sir.

Q. You went to bed, did you, after that?—A. Yes, sir. The report came in, however, before I retired that there had been a man killed, and that the sergeant had had his arm broken.

Q. Right there at that time did the report come in as to who had done the shooting up of the town?—A. The report was that the soldiers had done the shooting.

Q. No other opinion was expressed?—A. No other opinion was expressed at any time in Brownsville that I heard.

Q. Right there, at the time of the shooting, just at the close, that

was the report that came in?—A. That was the report that came, immediately.

Q. The next morning did you make any observation as to the effect of shots coming into the buildings, or the evidences of any of the buildings being struck?—A. I had pointed out to me two marks in the hotel that were said to have been the marks of bullets.

Q. That is the Miller Hotel?—A. Yes, sir; the Miller Hotel. Then I went down to the Cowen house and it was literally riddled with bullets. Some of the bullets were still where they could be seen.

Q. The Cowen house is at the corner of Fourteenth street and the alley, is it not; it is marked "2" on the map, there.—A. I think that is the place; yes, sir. Yes; that is the place.

Q. What was that building, a brick or a frame building?—A. It was a frame building.

Q. Did you take note of the number of bullet holes you saw in that building?—A. I did not count them; no, sir. I looked around quite a little, and I remember I counted 12 or 15, and they said there were considerable more.

Q. Considerable more?—A. Yes, sir.

Q. The Cowen house, was that a boarding house or a hotel or a private residence?—A. Well, I supposed it was a private residence.

Q. That is what you learned?—A. Yes, sir. I was not well acquainted there. I talked with the lady in there and she told me of getting her children under the bed. They all huddled together under the bed. She said if they had not they would certainly have been killed by the bullets; but they were on the floor, under the range of the bullets; and it certainly looked very plausible from the number of bullet holes you saw around in the house.

Q. As near as you can remember, where were those bullet holes in the Cowen house?—A. There were several in the back room, which I think was the kitchen.

Q. When you speak of the "back room," do you speak of the Cowen house as fronting on Fourteenth street?—A. Yes, sir. I remember one door casing that a bullet had gone through, which I think was a double casing; that is, the corner. It went through both of the casings.

Q. Where did that bullet lodge, if it stopped at all?—A. I do not know that it did stop, but that was shot completely through, and it was certainly through 3 or 4 inches of timber. Another bullet hole. I remember, was in a mirror in a wardrobe, or some other article of furniture of that nature.

Q. Were these in the back room of which you are speaking?—A. No, sir; I think not in the back room—that is, the mirror, if I remember, was, I should say, in the north—

Q. We have been pleased here to call all those streets running north and south—that is, Washington street and Elizabeth street and the others parallel—but they do not run exactly with the points of the compass. We have been calling the top of that map east.—A. You have been calling the top of the map east?

Q. Yes.—A. Well, it was in the front room, towards Elizabeth street.

By Senator PETTUS:

Q. Will you have the kindness to point out that building?—A. Yes, sir [indicating the Cowen house on the map].

By Senator WARNER:

Q. You say there was a bullet in a mirror. I think you said you saw that bullet?—A. Yes, sir.

Q. Did you notice that bullet? Could you tell what kind of a bullet it was?—A. Well, it was a very long bullet.

Q. A sharp-pointed bullet?—A. A steel bullet; yes, sir.

Q. What did you do with that bullet?—A. I left it there; I did not take it.

Q. You did not take it?—A. No, sir.

Q. Are you well enough acquainted with the Springfield or the Krag-Jørgensen or other rifles to tell what kind of a bullet it was?—

A. I could not tell the difference between them.

Q. You are not acquainted with those matters?—A. No, sir.

Q. Did you pick up any bullets there that morning, or cartridges—exploded cartridges?—A. No, sir; I did not pick up any. I think there had been somebody around ahead of me.

Q. Yes; I suppose so. Did you see any that were said to have been picked up in the streets?—A. Yes, sir.

Q. Where did you see those?—A. In the hands of citizens. The only particular man I remember now in whose hands I saw them was a man by the name of Sargent, simply because I happened to know Mr. Sargent better than I did the others. I was not well acquainted, you see, with the people round the town.

Q. How many did he have?—A. He had one clip, I think, where there must have been three, at least, fastened together, and two or three single ones.

Q. That is, three cartridges in a clip?—A. Yes, sir.

Q. And two single ones?—A. Yes, sir.

Q. What is Mr. Sargent's business?—A. At that time he was running a plumbing and bicycle shop, I think, in Brownsville.

Q. He was a responsible citizen there?—A. Yes, sir.

Q. You do not know what he did with those?—A. I do not know what he did with them. I came up on the train with him when I left there, and he said that he had them.

Q. That is, the next day?—A. No; it was Friday, I think, of that week, when I came out of there.

By Senator BULKELEY:

Q. Does he still live in Brownsville?—A. No, sir; his family live at my town, Laporte, but he is in business at Houston.

By Senator FORAKER:

Q. You did not see anybody doing any shooting at all?—A. I did not see any of the shooting at all.

Q. Your room had a window looking out on Elizabeth street?—A. Yes, sir.

Q. And you first looked out, after you got awake, from that window?—A. There was a window on the other side of my room, too; on the side towards the court.

Q. But I understood you to say that you first got up and went to the Elizabeth street window and looked out.—A. I think I did; but I looked out of both windows.

Q. And when you first looked out you saw the horse of the lieutenant of police lying in the street?—A. Not when I first looked out. After I had gone out on the gallery I saw the horse—or on the “veranda,” as you Northerners call it.

By Senator OVERMAN:

Q. What State are you from, Mr. McKay?—A. I am from Texas, now.

Q. How long have you been living in Texas?—A. I have been there five years.

Q. What State did you come from?—A. Iowa and South Dakota.

By Senator FORAKER:

Q. Your statement before Mr. Purdy, after stating that you got awake and listened to the firing for a while, was as follows:

I did not think much of it at first. I thought possibly it was some maneuvers over in the fort, but soon the people in the hotel next to me became considerably agitated over it, and the firing seemed to come up closer to the hotel. The firing then came up in the alley back of the hotel and apparently on up the alley for two or three blocks.

Did you mean by that that it went up the alley two or three blocks beyond Thirteenth street, towards Tenth and Eleventh and Twelfth streets?—A. That would be just judging from the sound.

Q. I am just trying to find out what you meant.—A. Yes, sir.

Q. That was your impression?—Yes, sir.

Q. Then you said further on page 96 of your testimony before Mr. Purdy:

I looked out of my window, the window facing on Elizabeth street—in fact, I went out on the veranda—and the horse which had been killed under the peace officer there was lying on the street.

Is that right?—A. Yes, sir.

Q. I wanted to know if that was the first time you looked out?—A. No, sir; I looked out of the window several times that night.

Q. Well, before that?—A. Yes, sir.

Q. What did you see when you first looked out?—A. There was nothing particularly to be seen.

Q. Looking out of this same window, you mean?—A. Yes, sir.

Q. To make a long story short, you did not see anybody doing any shooting?—A. No, sir; if they had been coming along the street, especially on my side of the street, I could not have seen them on account of the veranda.

Q. All you know is that you heard firing?—A. Yes, sir.

Q. And that you have these impressions which you have detailed to us?—A. Yes, sir.

Q. And that the next morning you went to the Cowen house, and there you saw one of these bullets?—A. Yes, sir.

Q. And you do not recollect that bullet distinctly enough to give us any description of it beyond that which you have given?—A. Nothing further than I have said about it, I think.

Q. Just what was it that you have said, if you will kindly repeat it?—A. It was a long apparently steel bullet.

Q. A steel-jacketed bullet?—A. A steel-jacketed bullet, and, I think, a pointed bullet, with a small point to it.

Q. You do not know anything about what that would weigh?—

A. No, sir.

Senator FORAKER. Before we adjourn, Senator Warner, may I ask in regard to the three bullets that were sent away? Have they come back?

(Several packages of bullets were here handed by the clerk of the committee to Senator Foraker.)

Senator FORAKER. That is all that I want to ask.

By Senator WARNER:

Q. From where you were you could not see out on Thirteenth street, of course?—A. No, sir.

Q. You could not see what was going on on Thirteenth street?—

A. No, sir.

Q. You were on the veranda, you had the veranda in front of you, and if you were there you could not see on Elizabeth street what was going on either, unless you got out and looked over?—A. No, sir; there is a small porch in front of the hotel.

Q. And you saw nothing of the shooting going on there?—A. No, sir.

By Senator SCOTT:

Q. Mr. McKay, do you know any reason why these soldiers should have done this shooting? Do you know if they were badly treated, and for that reason had any reason for shooting up the town?—A. Not of my own knowledge; no, sir.

By Senator WARNER:

Q. When you say not of your own knowledge, what do you mean by that?—A. I mean by that that I had not been in Brownsville, you know, at all, and was not acquainted there to any extent, except with just a few of the business men. I had been there once before this visit, and I had just arrived that night.

Senator WARNER. Yes. That is all.

(At 4.45 o'clock p. m. the committee adjourned until Monday, May 20, 1907, at 10 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Monday, May 20, 1907.

The committee met at 10.30 o'clock-a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF MACEDONIO RAMIREZ.

(The witness was sworn by the chairman, and testified through the interpreter.)

By Senator WARNER:

Q. Give your name in full.—A. Macedonio Ramirez.

Q. What is your age?—A. Thirty-eight years.

Q. How long have you lived in Brownsville?—A. I was born there.

Q. Have you lived there all of your life?—A. Yes, sir.

Q. What has been your business?—A. At that time, or always?

Q. I mean on the 13th of August, and for ten of fifteen years prior to that time.—A. I have been engaged in different businesses. I have been a day laborer. For some time I attended to the city lights, and for two or three years I was on the police force.

Q. How many years were you lamplighter?—A. About eight years, more or less. I do not know exactly.

Q. And how many years have you been a policeman?—A. Three years.

Q. Do you know the location of the street lamps in Brownsville?—A. Yes, sir.

Q. I will get you to look at the map which is here on the wall. Here is the garrison—the fort. Here are the different barracks, D, B, and C, and this broad red line, as we understand it, is the brick wall back of the barracks [indicating].—A. That which separates the barracks from the city.

Q. Yes. This is Levee street, here is Elizabeth street, and here are Washington street and Adams street. You recognize those streets, do you?—A. Yes, sir.

Q. Mr. Ramirez, will you tell us the location of those street lamps on Twelfth, Thirteenth, and Fourteenth streets, and on Elizabeth and Washington streets?—A. That star there indicates a lamp, does it not [indicating on map]?

Q. Yes.—A. This star is not in its proper place on the map.

Q. That is, the star at the northeast corner of Twelfth and Washington streets?—A. Yes, sir. It is not in its proper place.

Q. Where should that star be placed? Locate its position.—A. The corner where my pointer is is the corner where it should be, and that is the corner of Miguel Seaya.

Q. Can you tell the points of the compass? That is the northeast or northwest corner? We speak of Elizabeth street and Washington street as running north and south, and we are calling the top of that map east. Take a pencil and mark where the lamp should be at the corner of Twelfth and Washington streets. Mark it with a

cross.—A. Yes, sir. [The witness here marked a cross on the map as requested.]

Q. Now, go to Thirteenth street and see what correction should be made there, if any. Is that star properly placed to indicate the position of that light?—A. That is not well placed, because it indicates that it is almost in the center of the street. Neither is it on its proper corner.

Q. Mark with a cross where it should be.—A. It is on that corner, which is the corner occupied by the lot of Mr. Bolack.

By the CHAIRMAN:

Q. Allow me to ask just one question. Is the lamp placed at the curb—that is, on a line between the traveled street and the sidewalk?—A. In the very corner of the sidewalk [indicating].

By Senator WARNER:

Q. If you know, about how wide is the sidewalk?—A. I do not know what its width is.

Q. Go to Fourteenth street and state whether the lamp as indicated there by that red star is correctly placed.—A. Yes, sir. The upper point of the star indicates the location of the lamp. That is the lot occupied by Mrs. Wise.

Q. Do you know the location of the Miller Hotel?—A. Yes, sir.

Q. Do you know where the water-closet is in the Miller Hotel?—A. In the Miller Hotel? Yes, sir.

Q. Indicate it on the map. No. 5 on the map is the Miller Hotel.—A. Here it is in the corner [indicating].

Q. In the corner on the alley and Thirteenth street?—A. Yes, sir.

Q. Are there any windows in that water-closet opening out either on Thirteenth street or on the alley?—A. There is one looking upon the street which is in the very corner of the building, the corner giving upon the alley and the street, but looking upon the street.

Q. What kind of a light, if any, was kept in that water-closet?—A. A hand lantern about this size [indicating].

Q. Did that throw any light out in the alley or the street?—A. It gave sufficient light at this point to enable one to tell whether anyone crossed the street or not.

Q. Were you on duty on the night of the 13th of August last at the time of the shooting up of Brownsville?—A. I was in special service that night—the 13th of August.

Q. What do you mean by "special service?"—A. I mean by that when an official is ordered to care for a certain or specially determined point or place.

Q. What part of the city were you to care for?—A. On Ninth street, between the corner of the public school and the alley of the Alamo. This alley is between Adams street and Washington street.

Q. And the Alamo is located where?—A. El Alamo is a small store which is located upon the corner of Adams and Ninth streets.

Q. You have located the Bolack store on the corner of Washington and Thirteenth streets. Is that correct?—A. I located the corner of the Bolack lot at the corner of Thirteenth and Washington streets; but the store is upon the corner of Thirteenth and the alley.

Q. Do you know where the store called "the store of the sombrero" is located?—A. The old store of the sombrero—the ancient store of the sombrero?

Q. Yes; where is that?—A. Here it is [indicating].

Q. That is across Thirteenth street from the Bolack lot?—A. Yes; crossing Thirteenth street, as indicated.

Q. Do you know how far down Thirteenth street the store of the sombrero extends?—A. It extends from the corner to a point more or less in the middle of the block between Washington street and the alley, but it is not now a store; it is an office occupied by Mr. Longhill, and the rooms which immediately follow are occupied by families, and a tin shop.

Q. Did you hear the shooting the night of the 13th?—A. Yes, sir.

Q. Now, I want you to state slowly and in your own way just what you heard and saw that night.—A. The night of the 13th of August I was appointed to special service, extending from the corner of the public school to the corner of the Alamo. I was standing at the corner of the Alamo about ten minutes before 12, a little more or less, when I heard certain shots. I immediately started on a run towards Washington street, and I turned on Washington street in the direction of the barracks, and while I was running shots continued. I heard many shots. I crossed Tenth street, I crossed Eleventh street, Twelfth street, and Thirteenth street. In crossing Thirteenth street at the Bolack corner, and just a very little bit beyond the corner, I met the lieutenant of police and a policeman, Genaro Padron, and I asked them what had happened, and they replied that the soldiers had left the barracks and were shooting in the city. They were coming from Fourteenth street.

Q. Who were coming from Fourteenth street?—A. The lieutenant and Genaro Padron. When I met them I heard a shot in the Miller Hotel alley. Immediately the lieutenant turned on Washington street, taking the direction of the alley and the hotel. He was on Washington street, but turned into Thirteenth street. He followed along, then, on Thirteenth street, taking the direction of the alley—that is, going along towards the alley of the Miller Hotel. Genaro Padron was upon his right, separated a short distance from him, and I was upon his left, and before reaching the alley I heard a noise as though they were loading or unloading a gun. Then I remained leaning against a post in the middle of a gallery of Mr. Bolack, and Genaro Padron remained in against the house of the Sombrero. He went to the sidewalk next to the house of the Sombrero.

Q. One question there. You heard a noise as though they were loading a gun. Who do you mean was loading a gun?—A. I heard the noise that is produced by manipulating a gun.

Q. Where was this noise?—A. It was coming along the alley of the hotel.

Q. That is the alley between Elizabeth and Washington streets?—A. Yes, sir.

Q. Now, go on from where you said you went over to the Bolack store.—A. The lieutenant went on, crossing the alley. He crossed over the alley and I remained at a distance of some 30 feet from him; that is, 30 feet from the point where I was to the mouth of the alley. As he crossed the alley I heard a voice within the alley which said, as follows: "There goes one. Is he a soldier? If not, give him hell."

Q. That was in English? That was spoken in English, was it?—

A. Yes, sir. The voices which I heard were in English.

Q. Could you understand what was said?—A. Yes, sir.

Q. It is a fact, is it not, that many of the Mexicans can understand English who do not speak it?—A. Yes; and I am one of those who speak it some and understand it some, but not sufficiently to sustain an interrogatory such as this.

By Senator OVERMAN:

Q. I will ask the interpreter to tell him to repeat in English what I now say: "There he goes. If he is not a soldier, give him hell."—A. (The witness speaking in English.) "There it goes. If it is not a soldier, give it hell."

By Senator WARNER:

Q. You were there at this point, about 30 feet from the mouth of the alley, and the lieutenant had passed by, and you heard this voice. What did you see and hear next?—A. I remained there. The lieutenant had passed the alley a short distance when a group of soldiers came out, with carbines, and fired at him.

Q. How do you know that they were soldiers?—A. The light which shows through the window of the closet of the hotel, together with the light on the corner of Washington street, gave sufficient light for me to recognize them as soldiers.

Q. And you were then about 30 feet from the mouth of the alley, up towards Washington street?—A. Yes, sir.

Q. State how those soldiers were dressed, if you know—that is, what uniform they had.—A. I can not define the color; it was yellow, the color which is used during the hot weather. We, vulgarly speaking, call it "burnt yellow."

Q. Did you recognize it as being in color the same as that of the uniforms of the soldiers stationed there?—A. Yes, sir. And I had not the least doubt that they were soldiers.

Q. State whether you saw the faces of any or all of those soldiers.—A. At this moment I saw them, but not very well; not as well as I did afterwards.

Q. Go on. After this shooting of the lieutenant, where did you go and what occurred then?—A. When they fired at the lieutenant I saw that his horse trembled, as it were [indicating], and the horse ran. After they shot they said, "Here are two more," and when they said "Here are two more," I immediately left the point where I was and retreated rapidly, at which time they fired at us.

Q. Which way did you go when you retreated rapidly?—A. Towards Washington street.

Q. Go on.—A. I do not know which direction Genaro Padron took, but I followed along Washington street as rapidly as possible. I crossed Washington street in order to reach the other alley, taking the direction towards Adams street.

Q. On Thirteenth street?—A. Yes, sir. A little after crossing Washington street I felt a blow on my hat, and my hat fell, and I kept on running. I reached the corner of the alley.

Q. What alley?—A. The alley which runs midway between Washington street and Adams street.

Q. All right, go ahead.—A. I promptly arrived at the corner of

the stable of Luis Champion, which has a wall of brick. I stopped. I hid myself a moment, and stuck out my head, when I saw a group of soldiers arrive in front of the lamp of Bolack.

Q. Right there, just a moment. When you stopped and put out your head, where was it you stopped?—A. I hid myself in the alley just around the corner of this brick wall.

Q. That is, the alley between Washington and Adams streets?—A. Yes, sir.

Q. When you put your head out there and looked, just state to us what you saw.—A. I saw a group of ten or twelve soldiers, a little more or less, who came with their carbines in hand, in the attitude of being prepared to fire. They were not in a formed group, but separated somewhat from one another. They came, but not slowly; at a pace rather rapidly than slowly. They came to Washington street.

Q. From where?—A. They turned on Washington street in the direction of Twelfth street, and immediately I heard a discharge.

Q. About how many shots did you hear there?—A. I can not say with any degree of positiveness. There were a number; twelve, more or less. I did not count them. It was impossible to have the judgment to count them.

Q. Did you know that this group of men that you saw there at the corner of Thirteenth and Washington streets and on Thirteenth street, turned down Washington street, were soldiers?—A. Yes, sir.

Q. What light was there at the corner?—A. Where I saw them?

Q. Yes.—A. The light of Mr. Bolack, and in the very corner of the stable of Luis Champion is a window. This window has slatted shutters, and the man who takes charge there sleeps inside, and he had a lamp, and this lamp also gave light to the center of the street, and these two lamps gave me sufficient light to enable me to see.

Q. How far is the alley from Washington street?—A. I don't know the depth of the lots in Brownsville, whether they are 100 feet or 120 feet. I do not know positively, but it is just the distance of the length or depth of a lot.

Q. When you saw this group of soldiers at the corner of Thirteenth and Washington streets, just tell us what there was that enabled you to tell whether they were soldiers, and whether they were white soldiers or colored soldiers.—A. White soldiers it was impossible for them to be, because there were no white soldiers there.

Q. Did you recognize whether they were colored soldiers or not; and if so, how?—A. Yes, sir; colored soldiers.

Q. How did you recognize them as colored soldiers?—A. Because I saw them with my eyes.

Q. About how many were there there?—A. As I said before, there were ten or twelve, but I can not speak positively, because at that moment I was not counting them.

Q. Go on, now, and state what you saw after that, and heard, if anything.—A. When I left this alley and they turned on Washington street, taking the direction of Twelfth street, where I heard this discharge, then I took the direction of Adams street and went along Adams street in the direction of Twelfth street.

Q. That is, in going to Adams street, then, you went up Thirteenth street from the alley?—A. Yes, sir; along Thirteenth street; not

along the center of the street, because there is a vacant lot there, and I, as we say, cut across the lot.

Q. Not along the center of the street, but across the lot to Adams street?—A. Yes, sir.

Senator FRAZIER. He cut across.

By Senator WARNER:

Q. Go on and state what more you saw and heard.—A. I got to the corner of Twelfth street, where there is a coffeehouse, and I stopped there a moment. After a few moments I heard some shots, and I judged from the direction they were where there were some saloons.

Q. What saloons do you refer to?—A. There are a number of saloons there, and if you wish I can give you the names of all of them that were in that direction.

Q. In what direction from where you were was the shooting?—A. In the direction of the saloons that are on Elizabeth street.

Q. Do you know where Tillman's saloon was on Elizabeth street?—A. Yes, sir.

Q. That is marked No. 8 here on the map, I think.—A. Yes, sir [indicating on map].

Q. Would it be in this direction, then, where you heard the firing [indicating on map]?—A. These are the saloons, are they not [indicating]?

Q. Yes; that is the Tillman saloon.—A. I was standing at this corner [indicating].

Q. At the corner of Twelfth and Adams streets?—A. Along here I came, and I was here, and there is a coffeehouse here [indicating].

Q. That is at the corner of Twelfth and Adams streets?—A. Yes, sir.

Q. And in going there you went down Adams street?—A. Yes, sir; along this street [indicating].

Q. Now, state whether or not you saw the parties who were doing this shooting up of Brownsville that night, again, anywhere.—A. I saw soldiers after that, but they were soldiers with an officer. But I can not say that those were the ones that had been shooting.

Q. State whether you saw the lieutenant of police again that night after you saw him riding down the street, as you have stated.—A. Yes, sir.

Q. Where did you see him?—A. When they took him from the drug store to his house.

Q. Did you see where the horse of the lieutenant of police fell, or was, in the street?—A. Yes, sir; I saw the horse there with the saddle still on; at the point where he was dead.

Q. You have stated that when you were getting away from the direction of those people who were doing this shooting you lost your hat?—A. Yes, sir; when I was retreating I felt the sensation like that [indicating], and my hat fell.

Q. Like what?—A. Like that [the witness striking the edge of the table with his finger nail].

Q. A sensation like that?—A. Yes, sir.

Q. Did you get your hat after that night?—A. Yes, sir.

Q. State where you got it and who gave it to you, if anyone.—A. In front of the saloon of Tillman; Dr. Frederick Combe had it in his hand, and I recognized it and took it.

Q. What did you find the condition of that hat to be when you got it?—A. It was in good condition, with the exception that it was perforated from one side to the other.

Q. Perforated with what?—A. With a projectile.

By Senator FRAZIER:

Q. That is, you mean there was a bullet hole through it?—A. A projectile is a bullet.

By Senator WARNER:

Q. Was it in that condition before you felt this tapping—before it was knocked off your head?—A. No, sir. My hat was in good condition prior to that time.

Q. Where was it—that is, in what direction—that you heard the first of the shooting on the night of the 13th of August?—A. The direction of the fort.

Q. And did it come from that direction down into the town?—A. The shots came from the fort in the direction of the center of the town.

Q. That is, do you mean by "the shots" the parties doing the shooting—that they appeared to come from that way?—A. The noise of the shots that I heard in the air indicated that they came from the direction of the fort. Not the original explosions, but the whistle of the bullets.

Q. I want to know whether or not what you heard there indicated that the parties doing the shooting were coming from the direction of the fort up into the town?—A. Towards the center of the town, because at first the shots were heard some distance away and later were heard nearer the center of the town.

Q. Are you accustomed to hear the reports of the guns used by the soldiers there?—A. Very seldom did I hear them. Sometimes, when the white soldiers were there, I heard them.

Q. Was this report of the firing you heard the report of what you took to be high-power guns—that is, the guns that the soldiers used?—A. I was under the impression, or had the conviction, that the explosions or shots which I heard that night were produced by guns which the soldiers had.

Q. Did you have any feeling against the colored soldiers?—A. None; no, sir. When they arrived, some commenced well with me.

Q. What do you mean by "some commenced well with me"?—A. Sometimes we were in Mexican saloons, or beer shops, and I was frequently there, and they invited me to drink with them; but it was impossible, because they didn't allow me to.

Q. In Mexican beer shops or saloons, did they have separate bars for colored and white people?—A. There was no separate bar. Where the white people drank the colored people and the Mexicans also drank.

Q. How was it, if you know, with the white saloons, such as Mr. Tillman's and Mr. Crixell's?—A. Tillman, Crixell, and Weller had different apartments for them and for the white people.

Q. By "different apartments" you mean separate bars?—A. It was the same bar or counter, but it was divided by a partition.

Q. So that the white people drank at one end of the counter and the colored people at the other end of the same counter?—A. Yes, sir.

Q. But with a partition between them?—A. It was nothing but that the counter or bar had a division. It was all in the same room.

Q. In the same room?—A. Yes, sir.

Q. Did you ever hear any threats made against the colored soldiers by the people of Brownsville?—A. No, sir; I never heard anything. What I saw was that many Mexicans walked with the soldiers.

Q. That is, the Mexicans seemed to associate with the soldiers?—A. Yes, sir; there was good harmony among all of them.

Q. Going back to Tillman's saloon, now: after the shooting did you see the man who was killed there?—A. Yes, sir.

Q. Where was he?—A. He was in the courtyard, near the large door which opens on the alley.

Q. That is, there was a yard back of the saloon in which men sat and were served with drinks?—A. Yes, sir; there was a courtyard, and in the afternoon and in the evening they placed little tables there.

Q. That yard extended back to the alley, did it?—A. Yes, sir; it extended back to the alley.

Q. Did you learn there at that time who it was, whether it was soldiers, or who it was, that had killed this man?—A. I did not see anyone, but I knew it simply from what I was told.

Q. Was that what was stated there, what was told you, that soldiers had killed the man?—A. Yes, sir; from the conversation of the people there, from what they said, I gathered that soldiers had killed him.

Senator WARNER. That is, all.

By Senator FORAKER:

Q. Let me see if I can not get along with this witness without the help of the interpreter. I will question him directly. How old are you? Answer me in English.

(The witness addressed the interpreter in Spanish.)

The INTERPRETER. Shall I interpret what he said?

Senator FORAKER. You may tell us what he said to you.

The INTERPRETER. He says that he can reply to some words, but not to all of them.

By Senator FORAKER:

Q. How old are you?—A. Thirty-eight years old.

Q. Forty-eight years old?—A. Thirty-eight, I said the first time.

Q. What is your age?

Sensor OVERMAN. He said, Senator, that he was 38 years old.

Sensor FORAKER. Well, I wish you would just let me have the witness, if you please.

Sensor OVERMAN. All right.

By Senator FORAKER:

Q. What is your age?—A. Thirty-eight years old.

Q. You understood me, did you not, when I first spoke to you, perfectly? (After a pause.) Did you not understand what I said to you just now?

(After some hesitation, the witness addressed the interpreter in Spanish.)

By Senator FORAKER:

Q. You have lived in Brownsville all your life?—A. Yes, sir.

Q. You were born in Brownsville?—A. Yes, sir.

Q. And have lived there, therefore, for 38 years?—A. Yes, sir.

Q. And you have been a member of the police force for how many years?—A. About three years.

Q. Three years?—A. Yes, sir.

Q. And before that you were the lamplighter for the town?—A. Yes, sir.

Q. How many years?—A. About eight years, more or less.

Q. About eight years. Did you hold any position in the public service before that time?

(The witness here again addressed the interpreter in Spanish.)

Q. (Continuing.) Were you in the employment of the city in any capacity before that time—before you were a lamplighter?

(The witness addressed the interpreter in Spanish.)

Q. (Continuing.) What is your answer?

(The witness again addressed the interpreter in Spanish.)

Q. You have testified in this case how many times, now, before this? How many times have you given testimony about this matter?

[After a pause.] Do you not understand what I say to you now?—A. No.

Q. You do not? You can not tell what I was saying to you? [After a pause.] I will repeat it. How many times have you testified before this in this case?—A. Only one time, in Brownsville.

Q. Only one time, in Brownsville?—A. Yes, sir.

Q. What other place did you testify in this case?

(The witness shook his head and addressed the interpreter in Spanish.)

Q. You testified before the citizens' committee, did you not?—A. Yes, sir.

Q. A day or two after the affray occurred, was it not? [After a pause.] Did you not testify before the citizens' committee in Brownsville?—A. Yes, sir.

Q. You understand that perfectly, do you not?

(The witness remained silent.)

Q. (Continuing.) And that was only two or three days after this happened, was it not?

(The witness still did not answer.)

Q. I will put it in a different form. When was it that you testified before the citizens' committee?

(The witness addressed the interpreter in Spanish.)

Q. Can you not understand what I say to you?—A. No, sir.

Q. You can not understand it?—A. No, sir.

Q. Did you not testify before Mr. Purdy? [After a pause.] Can you not understand that?

(The witness shook his head and addressed the interpreter in Spanish.)

Q. Did you testify a second time?—A. Yes, sir.

Q. Where?

(The witness answered in Spanish.)

Q. Where? Speak out, so that I can hear you.—A. In the casino of Louis Kowalski.

Senator FORAKER. I will ask the interpreter to tell me what the witness said.

The INTERPRETER. He said in the office of Louis Kowalski.

By Senator FORAKER:

Q. So that you have testified twice? [After a pause.] Look at me, now, and answer.—A. Yes, sir.

Q. Did you have an interpreter the time before?—A. Yes, sir.

Q. What is your answer?—A. Yes, sir.

Q. You had an interpreter?—A. Yes, sir.

Q. When?

(The witness addressed the interpreter in Spanish.)

Q. Did you have an interpreter when you testified the second time?—A. Yes, sir.

Q. That is, in Mr. Kowalski's office?—A. Yes, sir.

Q. Who was the interpreter?—A. Mr. Kowalski.

Q. Mr. Kowalski?—A. Yes, sir.

Q. He acted as interpreter?—A. Yes, sir.

Q. Is he a Mexican or an American?—A. An American.

Q. He speaks both languages, however, does he?—A. Yes, sir.

Q. He is a clerk of the court, is he?—A. Yes, sir.

Q. How long have you known him?—A. I don't know.

Q. Who was the interpreter when you testified the first time?

(The witness addressed the interpreter in Spanish.)

Q. Do you not understand me?

(The witness answered in Spanish.)

Q. What is the answer? Speak out louder.

(The witness again answered in Spanish.)

Q. What was that answer? You can not understand?

(The witness again addressed the interpreter in Spanish.)

Senator FORAKER. Will you tell me, Mr. Interpreter, what his answer was? He answered in English, I think, but I can not hear him.

The INTERPRETER. It was in Spanish. He says "I can not remember."

By Senator FORAKER:

Q. Now, you make that answer to me in English. Do you not know what, in English, are the proper words for "I do not remember?"—A. No, sir.

Q. Do you not remember distinctly that you had not any interpreter when you testified before, before the citizens' committee? [Witness hesitating.] Do you not understand what I am saying?

(The witness spoke in Spanish.)

Q. What is that remark? Just repeat it so that I can hear it. You speak so low that I can not hear it. Can you not speak out louder?

(The witness again spoke in Spanish.)

Q. How many men are there on the police force?

(The witness did not answer.)

Q. Did you understand that question?

(The witness nodded his head.)

Senator WARNER. I suppose there is no objection to having it appear in the record that his testimony, both that before Major Blocksom and before Mr. Purdy, was given through an interpreter, as it appears in the record.

The CHAIRMAN. About examining him without an interpreter, I

have no objection to make, but it occurs to me that if he asks for an interpreter he is entitled to have one.

Senator FORAKER. At the same time, I am entitled to know whether he really needs an interpreter, and I am examining him directly for the reason also that this witness has claimed here to understand English very well, which he heard at certain times.

Senator FRAZIER. I did not understand that he said he understood it very well. I understood he said he understood it very imperfectly.

Senator FORAKER. I want to know whether he really needs an interpreter or not, that is all.

The CHAIRMAN. Of course it is all right to ascertain that; but as I say, when a man is unable to testify without an interpreter, and wants one, he is entitled to have one.

Senator FORAKER. I want to state that I am asking this witness very simple questions, and I want to see to what extent he understands. I looked a moment ago at the testimony of this witness taken before Mr. Purdy, as reported at page 142 of part 2 of Senate Document 155, but it seems that he made two statements.

Senator WARNER. One is a continuation of the other.

Senator FORAKER. There is a part of his testimony also at page 63.

The CHAIRMAN. It is possible that you might examine him without an interpreter, and I have no objection to your so examining him, if it is possible.

Senator FORAKER. It appears, I see, that there was an interpreter when he was examined before Mr. Purdy, but the interpreter was not Mr. Kowalski.

By Senator FORAKER:

Q. When you were examined before Mr. Purdy the interpreter was not Mr. Kowalski, was it? Was there not somebody else who acted as interpreter; and if so, who was it?

Senator FRAZIER (to the witness). Do you understand that?

By Senator FORAKER:

Q. Do you understand what I have just said?

(The witness here rose to his feet and spoke in Spanish.)

Senator FRAZIER. What does he say?

The INTERPRETER. He says, "If I am obliged to answer those questions, I will commit, literally, barbarities." He says he does not understand and does not know how to reply.

Senator FORAKER. Very well. I wanted to understand just how well he does understand.

By Senator FORAKER:

Q. Do you know Mr. Kleiber? You understand that, do you? Do you know Mr. John I. Kleiber?—A. Yes, sir.

Q. You know him?—A. Yes, sir.

Q. Did he act as interpreter for you?

(The witness answered in Spanish.)

By Senator FORAKER:

Q. Answer that. Do you understand my question?

(The witness again spoke in Spanish.)

Q. I will ask you some other questions, then. You say you do not understand me?

(The witness addressed the interpreter in Spanish.)

The INTERPRETER. He says, "I understand, but I do not know how to reply."

By Senator FORAKER:

Q. Do you know whether Mr. Kleiber acted as interpreter or not? You can answer one way or the other, or you can say you do not know.

Senator FRAZIER. Let him answer in Spanish, if he can not answer in English.

By Senator FORAKER:

Q. You understand what I am asking you, do you not?

(The witness shook his head.)

Q. You do not understand?

(The witness spoke in Spanish.)

Senator FORAKER. What was that answer?

The INTERPRETER. He says, "I do not understand."

By Senator FORAKER:

Q. Have you got your uniform with you? Do you understand that?

(The witness nodded his head.)

Q. You understood that question?—A. Yes, sir.

Q. Have you got it with you, your uniform?

(The witness spoke in Spanish.)

Q. Answer to me. Have you got it with you?—A. No, sir.

Q. Have any of your brother officers got their uniforms with them?—A. Right here, in Washington?

Q. Yes; here in Washington.—A. Only one.

Q. Which one?—A. Felix Calderon.

Q. Calderon has his uniform?—A. Yes, sir.

Q. Has Padron his uniform?—A. I have got mine, but it is at home.

Q. Yes; you have got it at home, but have you got it here?—A. No, sir.

Q. You understand all those questions very well. Where were you this night when the firing commenced?

(The witness spoke in Spanish to the interpreter.)

Q. Do you understand that question?—A. No.

Senator FORAKER. Very well. The interpreter may resume, then. I think we know about how much you can understand.

(At this point the interpreter again began the interpretation of the questions and answers, and continued to do so throughout the remainder of the testimony of this witness.)

By Senator FORAKER:

Q. I will ask you now whether anybody interpreted for you when you testified before the citizens' committee?—A. There was an interpreter, but I have not in mind who it was.

* Q. Then you must have understood all the questions asked you, and all the answers you gave, did you not?—A. There, before the committee?

Q. Yes.—A. Yes, sir.

Q. Did you tell that committee anything about seeing soldiers except at the mouth of the alley?—A. Yes, sir.

Q. Where did you tell them you saw them?—A. I have not in mind, and can not have in mind, all that I said to them.

Q. Was not there a stenographer there to take down everything that was asked you and everything you answered?—A. I don't know; there were persons there who were writing, but I do not know whether there was a reporter or shorthand writer there or not.

Q. Do you remember telling the citizens' committee, when you gave that testimony, what it was you heard this voice in the alley cry out?—A. I believe that I said to them the same that I say here.

Q. Repeat, now, just what you heard that voice say.—A. The voice that I heard in the alley when the lieutenant crossed?

Q. As the lieutenant crossed; yes.—A. As the lieutenant crossed a voice said "Is it a soldier?"

Q. Then what was it he said?—A. (The witness speaking in English.) "Give it hell."

Q. Did you tell Mr. Purdy, when you testified before him, what it said?—A. I don't remember.

Q. I will read from your testimony, as given before the citizens' committee, as it appears at page 85 of Senate Document 155, on the point of the testimony I am now examining you about, and ask you if it is correct:

When we were in front of Mr. Wells's office five or six soldiers appeared at the corner of the alley. One of them said, "Here he goes; shoot him," and three or four shot at Domingo, and one of them remarked, "Give it to him." None of us shot.

A. (After translation into Spanish by the interpreter.) No, sir; I never said we were in front of Mr. Wells's office. That is impossible.

Q. Well, where were you?—A. I was, as I stated a short time ago, next to the store of Mr. Bolack.

Q. What was it you heard that man say? Are you correctly reported? That is what I want to know.—A. The last I said was, "Give it hell."

Q. Is it correct in every other respect?—A. Not exactly, in all; but part is correct.

Q. Point out in what respect it is not correct. When I say "correct," I mean is that a correct report of what you said there, that is all.—A. A part is recorded as I said it.

Q. Did you say anything that is not recorded?—A. (After personal examination by the witness of the record.) I did not say when we were in front of Mr. Wells's office.

Q. We will pass that. I will now read from page 64 of the report of the testimony of this witness before Mr. Purdy:

As the lieutenant of police reached the alley I heard a voice say, "Is that a soldier?" and a man replied, "No." Just then several men came out of the alley and fired. The lieutenant then crossed the alley and was some little distance past; had about come to the door of Mr. Wells's office.

(The interpreter translated the above quotation into Spanish.)

A. That is true. The reason that "Give them hell" is not in there is because so many more questions were asked at one time than another. That word is not in this interrogatory, that which is in the book there, because they did not ask for words, as is now being done.

Here I repeat them, and possibly say more, because here they ask me more and give me more time to define a word.

Q. Where were you when the firing commenced?—A. On Ninth street, at the corner of the Alamo alley.

Q. How many blocks did you go before you met the lieutenant and Padron? Was it four blocks?—A. If you will allow me a moment, I will answer exactly how many it was. [After a pause.] It was about four squares.

Q. How long are those squares on Washington street?—A. I can not state how long they are.

Q. Did you not go one square from Adams street to Washington street, making five squares, before you met the lieutenant and Padron?—A. It is only half a square from the Alamo alley to Washington street.

Q. Then it was four and a half squares you went?—A. Four and a half, counting this half square.

Q. At what rate of speed was the lieutenant moving when you met him?—A. At the natural pace of the horse.

Q. Was he at a walk or trotting?—A. No; in a walk.

Q. In a walk? A slow walk? Did he continue to walk his horse until you separated from him?—A. When he separated from me and I stopped at the side of Bolack's house, he then commenced to go a little more rapidly, because he drew the rein [indicating].

Q. Did he request the lieutenant not to pass in front of the alley?—A. It is easy that I said so, but I can not say so. I do not remember.

Q. Had the lieutenant passed from out of the alley when you saw the first soldiers come out of it?—A. Yes. He had crossed the mouth of the alley.

Q. Did you remain at Bolack's, where you stopped, until the lieutenant's horse was killed and the lieutenant wounded?—A. No, sir.

Q. Where did you remain during that time?—A. When the lieutenant had crossed the mouth of the alley and had reached about the door of the office of Mr. Wells, it was then that the soldiers came out and fired at him. I saw the lieutenant went on, running his horse, and they immediately fired at us. Therefore I did not know where the lieutenant's horse fell or what happened to him until afterwards.

Q. Did you return the fire when they fired at you?—A. No, sir.

Q. When did you fire at them?—A. Never.

Q. You did not fire at all?—A. No, sir.

Q. How many of these soldiers were there in the squad that shot at the lieutenant?—A. I can not calculate exactly the number, but the first that came out of the alley were six, a little more or less.

Q. Five or six, you have stated, have you not?—A. Yes, sir.

Q. Where were the rest of the policemen at that time?—A. I don't remember where all were. I remember where some were.

Q. Did you or Padron or the lieutenant sound any alarm or make any call for help?—A. No, sir.

Q. Where was Padron while they were firing on the lieutenant?—A. I do not know, because when I reached the side of Bolack's house, he had crossed over the street, and I do not know where he stayed.

Q. Did you hear any shots from Padron's pistol at that time?—A. No, sir.

Q. Do you know where there is a side door to the Sombrero Building, fronting on Thirteenth street?—A. There are a number.

Q. How many?—A. I do not know how many, exactly, but perhaps there are three or four. I do not know.

Q. Are they all of the same character?—A. Yes, sir.

Q. Could a man stand in one of those doorways and be out of sight?—A. A man can hide himself well there, standing up this way, against the door [indicating].

Q. How far were those doors from where he was stationed on the Bolack side?—A. I can not say, because from the point where he was the distance is different, measuring from that point, to each one of the doors.

Q. Was any one of those doors so far away from you that you could not have heard a .45-caliber pistol if it had been fired there?—A. No, sir; because I do not know whether Genaro shot after I had run or before.

Q. Did you get so far away from that locality at any time before the soldiers came up there that you could not have heard a pistol shot, if it had been fired either from those doors or the corner?—A. I do not know; I can not say. A shot might have been fired which I confounded with the sound of the guns.

Q. You would be likely to confound a pistol shot fired from the corner of Washington and Thirteenth streets with the rifles which were being fired, according to your statement, down at the mouth of the alley on Thirteenth street?—A. I can not confound them, because the shots at the mouth of the alley I heard very near.

Q. Were you not nearer to the doors in the Sombrero Building, immediately opposite to where you were standing?—A. The mouth of the alley is nearer to the point where I was than the doors in the house of the sombrero are to the point where I was.

Q. How wide is Thirteenth street?—A. I am not certain as to the width of the street—perhaps 50 or 60 feet.

Q. How wide is Washington street?—A. I do not know; it is wider, but I do not know what the width of it is.

Q. How wide is Elizabeth street?—A. I do not know that, either.

Q. Did you not tell the width of these streets when you testified before Mr. Purdy?—A. I do not remember whether I did or not.

Q. Are Washington and Elizabeth streets not the same width?—A. I believe so; perhaps so; I do not know.

Q. Are they not 50 feet wide, and the cross streets—Fourteenth, Thirteenth, and Twelfth streets—30 feet wide each?—A. I do not know.

Q. Did you see Padron any more that night?—A. Yes, sir; I saw him in Elizabeth street.

Q. When and at what point?—A. I saw him when both citizens and officers were united in front of the saloon of Mr. Tillman.

Q. Did you see all the policemen there?—A. No, sir.

Q. Mention what policemen you did see there.—A. I have not the recollection of all, but I can give some. There was the mayor of the city, the chief of police, Felix Calderon, Genaro Padron, Cesario Leal, Vidal Rivas, and after a short while there arrived José Coronado and Florencio Briseño.

Q. Did you see Marcellus Daugherty there?—A. Also I saw him.

Q. How was he armed?—A. With a pistol and a carbine in his hand.

Q. He had a carbine also, did he not?—A. Yes, sir.

Q. What kind of a carbine was it?—A. I do not know what they call it. It was a black carbine—what we call down there a “carabina twelve.”

Q. Will you look at that gun and see whether that is it [indicating gun to witness]?—A. (The witness answering in English.) No, sir.

Q. You understood what I said, then? You did not wait for the interpreter. Look at this and state whether or not that is what he had [exhibiting another gun to the witness]. Is that it?—A. No, no, no.

Q. You did not have this?—A. No.

Q. And you did not have this [indicating other gun]?—A. No, sir.

Q. Now, describe what you did have.—A. Do you not know the “carbine of twelve?”

Q. No; I do not. I never lived in Brownsville.—A. They are everywhere.

Q. Are they? Of what manufacture is that “carbine of twelve?”—A. The Winchester, they name it.

Q. Oh, the Winchester?—A. Yes, sir.

Q. And what caliber is that?—A. I do not know what caliber his was, because I never had it in my hand.

Q. Were carbines of that kind in common use in Brownsville?—A. Yes, sir.

Q. There were a good many of them there?—A. There are quite a number of them. They are sold in the store of Juan Fernandez and several other places.

Q. Are they not sold by Mr. Fields?—A. It seems to me that they are, although I am not certain.

Q. Are there not still other kinds of guns there?—A. Yes; there are different ones.

Q. Is it not true that almost every man in Brownsville has a gun of some kind in his house?—A. No, sir.

Q. Are they not pretty good shots?—A. No, sir; because they never practice shooting.

Q. Did you see any other policeman than Daugherty having a gun that night?—A. After a short time Manuel Villa Real came with a carbine.

Q. He was a policeman?—A. He was a deputy sheriff.

Q. Did Fernandez have a gun that night?—A. Yes, sir; also he had a gun.

Q. How many others of the policemen had guns?—A. I did not see any other that I can recall.

Q. Did not Coronado have a gun?—A. I do not know; I saw him, but without a carbine.

Q. Tell us who the two policemen were that were at Mrs. Leahy's hotel that night, shut up for safe-keeping?—A. The name of the lady who keeps the hotel is Mrs. Leahy.

Q. Do you know who those two policemen were?—A. Which ones?

Q. There is testimony in the record to the effect that two policemen were shut up in a room at Mrs. Leahy's during this firing, and for quite a time afterwards—about two hours.

Senator WARNER. In what record is that?

Senator FORAKER. In the testimony of Mrs. Leahy which was given before the court-martial; and I think that was testified to here.

Senator WARNER. The only reason that I am asking this is so that we may have no misunderstanding. It is understood that that is all in the record.

Senator FORAKER. And I think Padron testified to it before us, here.

Senator WARNER. I just asked so that we might understand each other.

A. I do not know about that, for I saw no one.

Q. Did you see Joaquin Treviño that night?—A. No, sir.

Q. Did you see Lerma?—A. No.

Q. Did you see Rafael Galvan?—A. Neither did I see him.

Q. Then you saw, altogether, only three policemen, as I understand you, with guns; that is, Marcellus Daugherty, Vidal Rivas, and Victoriano Fernandez?—A. I did not see Rivas.

Q. According to the interpretation, you have said that you saw Vidal Rivas with a gun also.—A. No, sir; Manuel Villa Real.

(The INTERPRETER. I misunderstood what he said before.)

Q. I got the name wrong, then. You saw three?—A. Manuel Villa Real, Victoriano Fernandez, and Marcellus Daugherty.

Q. Did you see a meeting of citizens that was addressed by the mayor, that night, shortly after the shooting was over?—A. A group that was united, that had gathered together in Elizabeth street in front of the saloon of Mr. Tillman.

Q. How large a group was that? How many were present?—A. I can not calculate; there may have been 60, 70, or 80. I can not tell.

Q. May there have been as many as two or three hundred?—A. No, sir; I do not know. I can not say the exact number.

Q. Were you there when the mayor addressed this assemblage?—A. Yes, sir.

Q. What did the mayor tell them?—A. I don't remember all he said, but I remember some words.

Q. Give us such words as you remember.—A. The mayor spoke to them and said that he, as mayor of the city, begged and supplicated all the citizens who were present that they all retire to their homes, and that he, on another day, personally, accompanied by other principal citizens of the city of Brownsville, would go to the military commander of the barracks to report the outrage that had been committed by certain soldiers against the defenseless city, and he repeated his supplication that they retire to their homes, and that no one depart from their house.

Q. And did they then disperse?—A. They all dispersed, and only the officers remained.

Q. Were the people who were so assembled all armed?—A. No, sir; only the officers; no one else.

Q. Did you not see any of the citizens with guns in their hands?—A. No citizens did I see with arms.

Q. Then, if the mayor has testified that they were armed, he is mistaken, is he?

Senator WARNER. I will submit to the Senator that that is not proper.

Senator FORAKER. I want to refresh his recollection.

Senator WARNER. The question is not whether the mayor testified to this, but I submit to you whether that is a proper question.

Senator FORAKER. I submit it is a perfectly proper question, and would be under the rules of court. It is due to the witness that I should call his attention in some way to the fact.

Senator WARNER. I simply put it to the Senator whether it is proper. I do not press my objection to it.

By Senator FORAKER:

Q. If you were to be informed that the mayor had testified that these citizens were armed, would that change your recollection of it in any way? If you should be told that the mayor had testified that these citizens whom he addressed were armed, and they wanted to move on the fort, would that change or affect your statement, or your recollection, as to whether they were armed?—A. I would not change my opinion, because I did not see any citizen bearing arms, and I heard no words indicative of a desire to attack the fort, because it would be impossible for the number of citizens who were there to attempt an attack against an armed place.

Q. If that is true, why was it that the mayor appealed to them to disperse and leave the matter to his management?—A. He begged the meeting, or collection of citizens that were there, to disperse and retire to their homes because he was afraid that the soldiers would again come out.

Q. Oh, yes; now I understand it. Did you hear of any threat upon the part of the soldiers to again come out?—A. It was impossible to have heard, because they were now within the fort.

Q. Had you not seen, before this assemblage was addressed by the mayor, this company of soldiers commanded by Captain Lyon going through the streets?—A. When the group of people were in front of the Tillman saloon, a company of soldiers came out, along Twelfth street, coming out of Elizabeth street, and took the direction of the fort, along Elizabeth street. A soldier was in front with a lantern in hand, and there was an officer, but I do not know who that officer was.

Q. How many men were in that company?—A. I do not know; I did not count them. It was a regular sized company, possibly 40 men.

Q. Why did you not tell Mr. Purdy, or the citizens' committee, about retreating to Mr. Champion's stable and from there seeing soldiers at the corner of Thirteenth and Washington streets?—A. I told them that, and if it is not set down the fault is not mine.

Q. I find, upon looking at your testimony before Mr. Purdy, that you do speak of seeing soldiers at the corner of Washington and Thirteenth streets. I was misled by the fact that the testimony is reported at different places. But did you tell the citizens' committee that?—A. My recollection is that I told them. It is possible that I may have forgotten it.

(At 1.10 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reassembled at the expiration of the recess.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Overman, and Frazier.

TESTIMONY OF MACEDONIO RAMIREZ.

MACEDONIO RAMIREZ resumed the stand and testified (through an interpreter) as follows:

By Senator FORAKER:

Q. Did you hear any pistol shots that night?—A. No, sir.

Q. There were none in the first firing you heard?—A. No, sir.

Q. All the shots you heard seemed to be out of the same kind of a gun, did they?—A. And from the same direction also.

Q. You said the policemen got together, or most of them, after this fight. Where did they first get together?—A. In front of the saloon of Mr. Tillman.

Q. Did you not have a meeting before you got to Tillman's saloon?—A. No.

Q. How were you armed that night?—A. I only had my pistol.

Q. Any gun?—A. No, sir.

Q. What kind of a uniform were you wearing?—A. What uniform do the police wear?

Q. What kind of a uniform were you wearing that night, if you were wearing any uniform at all?—A. Pantaloon, very dark, with buttons ornamented with a star.

Q. Did you have on a blouse? If so, what color was it?—A. A blouse or coat, and pantaloons.

Q. Of dark color?—A. Both were dark.

Q. At that time was not the police force wearing a khaki uniform?—A. I don't remember whether any wore a uniform similar to khaki. We have two kinds of uniform, one similar to khaki and the other dark blue.

Q. Which did you have on that night—you yourself?—A. Dark.

Q. Dark blue?—A. Very dark blue. It would seem at night all black.

Q. Were the other policemen on duty that night wearing the dark blue or the khaki uniform?—A. With reference to the other police, I don't remember whether they wore the khaki or the dark blue.

Q. What kind of a hat was this that was shot off your head?—A. Half white, or rather white.

Q. Is that the regular uniform police hat?—A. Yes, sir; and they use both this color and black.

Q. Was not the hat you described the hat you wore with a khaki uniform?—A. No, sir.

Q. Is it the regular hat you wear with the blue uniform?—A. As a rule, the regulations do not compel us to wear any specified hat.

Q. State whether this bullet went through the crown of the hat or the rim of the hat.—A. It passed through the upper part of the hat, about 2 inches from the highest point.

Q. How high is the crown of that hat?—A. I don't know, for I never had the curiosity to measure it.

Q. Is it as much as 4 inches in the crown?—A. I believe it is more than 4 inches.

Q. Where is that hat?—A. I used it in service and left it in my house, and the children finished it—that is, wore it out. When it was old, I have some relatives in my house, and I gave it to them, and they wore it out.

Q. It is gone, therefore, so far that you could not recover it and send it to us so we could see it?—A. In the event that it is still there, it is now so worn out that it would amount to nothing, because I gave it to a nephew of mine, 15 years of age, who is at school.

Q. Was that a uniform hat?—A. No special directions as to the hat.

Q. I want to see how high the crown of that hat was. I want to know whether I can not get one like it.—A. The hat was not specifically prescribed in the regulations. Each one bought for himself, and they were similar to each other.

Q. Was not that the same kind of a hat the Lieutenant is wearing here now?—A. No; because he is wearing a dark hat.

Q. Well, except as to color.—A. Mine was larger.

Q. I will ask you about the candlepower of these lights. You were the lamplighter for eight years, I believe. Can you tell us what the actual power of those lamps was?

Senator WARNER. Would it not be well to find out whether he knows what is meant by candlepower?

Senator FORAKER. If he knows, he can tell it. The interpreter can explain to him that I want the candlepower, if he knows what that is and can give it to us.

A. I can't say. You are talking of candles, are you not?

By Senator FORAKER:

Q. Well, the power, the strength of the light.

Senator SCOTT. Ask whether the light was equal to 1 candlepower or 2 or 3 or 4 or 5.

A. I can't say what candlepower it would be.

By Senator FORAKER:

Q. Can you tell us what kind of a wick it had; whether it had a round wick, or what it was?—A. The lamp had a wide wick, not round.

Q. How wide was it?—A. Perhaps a little more or less than the width of my two fingers.

Q. Was it not a half-inch wick?—A. No; not a half inch; more. I believe it was 1 inch, a little more or a little less.

Q. Did all the lamps have the same kind of a wick?—A. Yes, sir.

Senator FORAKER. That is all.

Senator WARNER. That is all.

TESTIMONY OF VICTORIANO S. FERNANDEZ.

VICTORIANO S. FERNANDEZ, being duly sworn, testified as follows:

By Senator WARNER:

- Q. What is your name in full?—A. Victoriano S. Fernandez.
- Q. What is your age?—A. I am 25 years old.
- Q. Where were you born?—A. In Brownsville, Tex.
- Q. You have lived there all your life?—A. Yes, sir.
- Q. Are you on the police force in Brownsville?—A. Yes, sir.
- Q. How long have you been on the police force?—A. About three years and some months.
- Q. What were you doing before that?—A. I was deputy sheriff before that.
- Q. Of the county?—A. Yes, sir.
- Q. How long were you deputy sheriff?—A. About one year.
- Q. Were you on duty the night of the 13th of August last?—A. No, sir.
- Q. Were you in Brownsville on that night?—A. Yes, sir.
- Q. Where were you when you heard the first shooting?—A. I was asleep, on Washington street.
- Q. At what place?—A. At my brother-in-law's house.
- Q. At what point on Washington street was that?—A. Between Eleventh and Twelfth streets.
- Q. Had you gone to bed?—A. Yes, sir.
- Q. What did you do when you heard the first shooting?—A. I ran to the corner of Eleventh street.
- Q. You got up. Did you have to dress?—A. Well, I had time to put on my pantaloons. That is all. I didn't have time to put on my coat. I just ran out.
- Q. You put on your shoes?—A. Only one, sir.
- Q. Only one?—A. Yes, sir.
- Q. You ran out. What street did you run out to?—A. To Eleventh street.
- Q. Then where did you go?—A. To the corner of Elizabeth street.
- Q. Elizabeth and Eleventh?—A. Yes, sir.
- Q. Where was the shooting you heard?—A. I heard it to the south of the town; that is, towards the barracks.
- Q. That was the shooting you heard?—A. Yes, sir.
- Q. Did it come up, further uptown?—A. Well, I think so. There was shooting. The bullets were whizzing all around.
- Q. Just tell us in your own way, Mr. Fernandez, what you did and what you saw there.—A. From the corner of Eleventh and Elizabeth streets I ran to Mrs. Bolack's, on Twelfth street, on the corner.
- Q. Is Bolack's on Twelfth or Thirteenth street?—A. That is Twelfth street, sir.
- Q. Well?—A. Between Twelfth and Thirteenth streets there is the Ruby Saloon, and I heard a voice, and I can swear that it was the voice of Mr. Preciado, that hollered for an officer, an *oficial*. In Spanish "*oficial*" means an officer. He was just across the street, and he told me that a bartender by the name of Frank Natus was

laying there wounded. I went there, and I named him, and another gentleman by the name of Nicolas Alanis, and another man by the name of Antonio Torres—I named them as officers until I got the justice of the peace to get the body.

Q. Did you see any of the parties who did the shooting?—A. No, sir.

Q. Who was it you found there who had been shot?—A. That was Preciado. He was shot, his coat, and his hand was wounded; and laying down about 3 feet from the cistern in the yard was Frank Natus, a young boy about 20 or 22 years old.

Q. He was a barkeeper?—A. Yes, sir.

Q. That was in the saloon?—A. Yes, sir.

Q. In Tillman's saloon?—A. In Tillman's saloon.

Q. When you went there, were you told by anybody who had done the killing?—A. Mr. Preciado told me that the soldiers—our soldier; something like that.

By Senator FORAKER:

Q. Who told you that?—A. Mr. Preciado.

Q. He told you that the soldiers had done what?—A. The soldiers had shot from the alley—shooting from the alley inside of the saloon.

By Senator WARNER:

Q. And had killed whom?—A. And had killed Frank Natus.

Q. That voice was calling for what, doing what, did you say?—A. For an officer.

Q. And that voice came from Tillman's saloon?—A. Inside of Tillman's saloon; yes, sir.

Q. And you went and took charge of that place, as you have stated?—A. Yes, sir.

Q. Did you see the other police officers?—A. I met Padron when I came out. I met Padron on the sidewalk, and I told him to stay at the door and not let anybody inside there, that I had just named three more citizens to protect the body until I got the justice of the peace to get the inquest.

Q. And you did not see any of the parties who did the shooting?—A. No, sir.

Q. Were you in Brownsville all the time the colored soldiers were there?—A. Yes, sir.

Q. Did you make any threats against the colored soldiers?—A. No, sir.

Q. Did you hear any threats made against them by anyone?—A. No, sir.

Q. Did you say, at any time or place in Brownsville, the following words or anything like them: "The colored fellows will have to behave themselves or we will get rid of them, and all that we will have to do is to kill a couple of them and get rid of them again. We do not want them here?"—A. No, sir.

Q. Did you ever intimate anything of the kind?—A. No, sir.

Q. What was your relation with these colored soldiers? That is, whether you were friendly and sociable with them?—A. I used to go in the evening to the quarters and hear them play music, every evening; and I can prove that by lots of soldiers and colored troops there.

Q. You would go down to the barracks?—A. Yes, sir.

Q. Did you ever have any trouble with any colored soldiers?—

A. No, sir.

Q. Did you ever hear any threats made against them by anyone?—

A. No, sir.

By Senator FORAKER:

Q. You never made any threats of any kind?—A. No, sir.

Q. You had no objection whatever to the colored soldiers coming there?—A. No, sir.

Q. No objection to their remaining there?—A. No, sir; when the Ninth and Tenth Cavalry—the colored troops—were there, I used to play ball with them—baseball; I myself.

Q. And you never even talked about any violence being done to them by anybody?—A. No, sir.

Q. Do you know a sergeant in the Twenty-sixth Regiment by the name of Hurin or Huron?—A. Sergeant Huron; yes, sir.

Q. You know him very well, do you not?—A. Yes, sir.

Q. He speaks Spanish, does he not?—A. Yes, sir.

Q. Have you met him frequently?—A. Yes, sir.

Q. Do you remember meeting him in Weller's saloon shortly before the colored soldiers came there, or after it became known that they were to come there?—A. Well, I met him most every day. That is my beat—Elizabeth street.

Q. Right along on Elizabeth street?—A. All the soldiers—the Twenty-sixth—I met them.

Q. You never made any threat to him?—A. No, sir.

Q. Of the kind that Senator Warner has just asked you about?—

A. No, sir.

Q. Did you ever put your hand on your pistol in his presence and say you would use that on them if they came there?—A. No, sir.

Q. And you never spoke about killing two or three of them?—

A. No, sir.

Q. As your contribution to the work of getting rid of them?—

A. No, sir.

Q. Everything of that nature is without any truth, is it?—A. Well, I never said so.

Q. You never said any such thing?—A. No, sir; no, siree.

Q. How are you armed, as a policeman?—A. We carry down there a club and a six-shooter, sir.

Q. When did you commence carrying the club?—A. Well, I commenced three years ago.

Q. Some one testified that the club was not originally carried; that that was an innovation that had been inaugurated only two or three years ago. They were carrying the club when you went on the force, were they?—A. Yes, sir.

Q. And you have always carried that club?—A. Yes, sir.

Q. And the six-shooter; what is the caliber of that?—A. Forty-five, sir; Colt's.

Q. Did you have your six-shooter with you the night of the shooting?—A. Yes, sir.

Q. Did you fire it at all that night?—A. No, sir.

Q. You did not shoot at all?—A. No, sir.

Q. You are certain of that?—A. I am certain of that.

Q. Did you get down on to Elizabeth street before the firing was over?—A. Before that.

Q. Before the firing ended that night?—A. Before the firing ended; yes, sir.

Q. Whereabouts on Elizabeth street did you first stop?—A. At the corner of Eleventh street.

Q. That is the Merchants' Bank corner, is it?—A. That is the First National Bank.

Q. That is at Eleventh street. The Merchants' National Bank is at Twelfth?—A. At Twelfth.

Q. Twelfth and Elizabeth. What did you stop there for?—A. I never stopped; I just turned around this way [indicating], and kept going on towards Twelfth street.

Q. That is, you stopped and kept going on?—A. Yes, sir.

Q. You did not stop there only for a moment or two, to just look around?—A. Yes, sir.

Q. About where was the firing at that time?—A. Well, you could hear it on Washington street and you could hear it on Elizabeth street, some other place—between one block and another.

Q. You could hear it all around in that general direction of Washington and Elizabeth streets?—A. Yes, sir.

Q. And in the alley in the rear of the saloon?—A. Well, it may have been the alley or the street. I am not sure about that.

Q. Did you hear any pistol shots at all that night?—A. No, sir. I don't know. There may be some pistol shots. I can't tell.

Q. Did the shots all seem alike to you, in sound?—A. Well, there was one or two that seemed to be the same shots, but the most of them; yes.

Q. Did you know Frank Natus, the man who was killed?—A. Yes, sir.

Q. Did he have a brother?—A. Yes, sir; I think it is his uncle. His name is John Natus.

Q. He is what, did you say? His brother?—A. He is not his brother. I don't know whether it is a brother or uncle of him.

Q. But you know John Natus?—A. Yes, sir.

Q. Did you see him that night?—A. Yes, sir.

Q. Where did you see him?—A. At the saloon there.

Q. Which saloon?—A. Tillman's saloon.

Q. Where Frank Natus was killed?—A. Yes, sir.

Q. Did you see him any place that night before you saw him at the Tillman saloon?—A. No, sir; I saw him after.

Q. After?—A. Well, after there was about 200 people in the saloon he came and took the body to the house of Frank.

Q. You did not see him until then?—A. Until then.

Q. Had you seen him at all during that day?—A. Well, in the day he walks around. He is always collecting money, bills.

Q. Did you carry at any time any other weapon than the club and the revolver?—A. Well, that is what we carried.

Q. Did you not carry anything else at any time?—A. After the shooting—

Q. No; before the shooting?—A. Not before the shooting; no. After the shooting, after we found the body there, I ran to the county jail and I asked the jailer to give me a Winchester, and he

gave me the Winchester, and he came with me—by the name of Manuel Villareal—with another Winchester, and we went to the house of the justice of the peace, and we came to the justice of the peace with two guns, Winchesters, sir.

Q. That is, you got your Winchester that night after the firing was over, and got it from the jailer?—A. Yes, sir.

Q. And this other policeman of whom you speak got his at the same time, did he?—A. Yes, sir.

Q. You never carried a Winchester before that?—A. No, sir; only the deputy sheriffs carry Winchesters.

Q. Did you ever carry a knife?—A. What kind of a knife?

Q. A dirk, a bowie knife?—A. Well, I have about three or four in my house.

Q. Did you not carry one shortly before this shooting?—A. Oh, yes; lots of times.

Q. Did you not have one on your person on the evening of July 27, in a crowd of people who were assembled on the Merchants' National Bank corner, and did you not exhibit it there in the presence of a number of people?—A. Well, I will tell you. I have three or four of them. I don't know.

Q. Did you not have this knife, carrying it up your sleeve, and did you not exhibit it there and comment on the purpose you had?—A. I don't remember about it, but I can say I used to wear them and show them to friends. One of them was made here in Mexico, you know.

Q. You do not remember this particular occasion that I speak about?—A. No; I do not, sir.

Q. I do not know anything about it. I am trying to get from you such information as I can.—A. Yes, sir.

Q. You know Charles Falgout, do you?—A. A carpenter?

Q. Yes.—A. Yes, sir.

Q. He is a half-breed Mexican, is he not?—A. Yes, sir.

Q. And a carpenter?—A. Yes, sir.

Q. He worked about the post?—A. He always worked at the post; yes, sir.

Q. Did you see him there at the place I have mentioned at the time I have mentioned?—A. The custom there; they stand at the corner to watch the people going on. He might have been there at the time.

Q. That is a rather prominent corner?—A. Yes, sir.

Q. A great many people congregate there?—A. Yes, sir.

Q. Is it an unusual thing to see twenty or thirty people congregated there?—A. Yes, sir.

Q. That is unusual?—A. Yes, sir.

Q. If there had been anything like such a number of people assembled there, you would remember it, would you not?—A. Yes, sir.

Q. You have no recollection of seeing so many people there?—A. As I am telling you, I saw lots of people there. There is always people there.

Q. Do you know a Mr. McLean, who is a school-teacher?—A. McLean? I might know him by sight, not by name, sir. He is a stranger there. There is lots of strangers.

Q. Are you acquainted up at Santa Maria?—A. Santa Maria?

Q. Yes; that is some distance up the river.—A. Yes; I know the place; Santa Maria.

Q. Do you remember of seeing a school-teacher by the name of McLean, who was in this crowd to which I refer?—A. He might be there. I don't remember seeing him there.

Q. I understand you to say you have no recollection of it at all. I am simply trying to refresh your recollection. I understand you to say you will not deny there was such a crowd?—A. I won't deny it.

Q. You simply do not remember about it?—A. I don't remember.

Q. You will not deny exhibiting a knife, but you simply do not remember?—A. That is it.

Q. Have you any of those knives with you?—A. Right now? No, sir.

Q. Do you know Mr. McDonough?—A. Yes, sir.

Q. Then, if you do not remember anything about that occasion or that crowd or that exhibition of that knife, it is hardly worth while to ask you what you said you had that knife for; but I will ask you whether you did not exhibit a knife at the place I have mentioned to such a crowd as I have mentioned, and if you did not say that you had that to use on the colored troops when they came?—A. No, sir.

Q. That you deny without any qualifications at all?—A. Yes, sir; that I deny, because I never remember saying such a word like that. I don't deny that I have three or four of them; yes, different kinds of knives.

Q. But you deny exhibiting a knife at this place, and making any such remark as that?—A. Yes, sir; I don't remember never saying a word of that kind, sir.

Q. How did you usually carry those knives when you were carrying them?—A. Well, we carry them in a belt, with a little scabbard. That is the way we carried them [illustrating].

Q. Did you carry them on the outside of your clothing?—A. Outside; yes, sir.

Q. Or were they concealed?—A. Well, they were concealed by the coat, you know. This is the belt here, you know [indicating], and the dirk would come right here.

Q. Stand up and show us.—A. The six-shooter right here, and the dirk here, and the coat would be here [indicating].

Q. Have you your six-shooter there?—A. At my hotel; yes, sir.

By Senator WARNER:

Q. The six-shooter is on the right and the knife on the left?—A. Yes, sir.

By Senator FORAKER:

Q. Did the policemen generally carry these knives?—A. No, sir.

Q. Did you ever, in arresting any of the soldiers, strike them over the head with the butt of your revolver?—A. White soldiers, or what kind?

Q. Yes; or colored.—A. Never.

Q. Let me ask you one other question to see whether or not I can refresh your recollection about the incident to which I have referred. Do you remember about taking out your knife, taking it out of your sleeve, exhibiting it to the crowd, and then passing it around among the crowd, and there taking it and looking at it one after another and making remarks about it?—A. Well, it might be. I don't remember.

Q. All that might be, but you simply do not remember?—A. That is it.

Q. I understood you to say you did not see any firing at all that night?—A. No, sir.

Q. You did not see any soldiers or anybody else?—A. No, sir.

Q. You can not tell us, then, anything about how these soldiers were dressed?—A. No, sir.

Q. How often have you testified about this matter?—A. Well, I will tell you. I have testified only once.

Q. That was before the citizens' committee?—A. The citizens' committee, but they mixed me up.

Q. They mixed you up?—A. Yes; and tried to—well, I don't know. Everybody wanted to ask questions, and different questions.

Q. You testified before the citizens' committee, and your testimony was taken down by a stenographer, was it not, just as it is now being taken down?—A. Yes, sir.

Q. You knew that when you testified?—A. Yes, sir.

Q. And that was just a day or two after this shooting affray?—A. Yes, sir.

Q. I have before me the report of your testimony given at that time, and I read from it, as follows:

I was asleep at Washington street. I was on day watch and was sleeping. I heard a single shot.

That is correct, is it?—A. No, sir.

Q. What were the facts?—A. I heard lots of shots when I woke up.

Q. Where were those shots apparently being fired from; at what locality?—A. To the south of the city.

Q. To the south of the city and in the direction of the barracks?—A. Well, more or less; yes—between Twelfth and Thirteenth streets only; in that direction.

Q. In what?—A. Twelfth and Thirteenth streets.

Q. Yes; down there; not as far away from you as the barracks, but perhaps between Twelfth and Thirteenth streets?—A. Yes; more or less.

Q. Was that firing on Washington street or on Elizabeth street or in the alley between the two?—A. I don't know, sir.

Q. You can not tell about that?—A. No, sir.

Q. About how many shots did you hear?—A. Well, I don't remember the number of shots. I heard lots.

Q. And when you heard a lot of shots, you jumped up—A. And ran to Eleventh street.

Q. You went out, however, with only one shoe on?—A. Yes, sir.

Q. Did you go with only one shoe all the rest of the night?—A. Well, when I found the boy was killed at the saloon, I passed by home and picked up a shoe and went to the jail and got the Winchester and went and got the justice of the peace to get the inquest.

Q. You went with only one shoe, however, until after you saw the body of Natus?—A. Yes, sir.

Q. Who was killed?—A. Yes, sir.

Q. Then you went home and got the other shoe?—A. Yes, sir; and went to the county jail.

Q. You finished dressing, I suppose?—A. Yes, sir.

Q. And then went to the jail after that, and then went to the justice of the peace?—A. Yes, sir.

Q. That was for the purpose of having a coroner's inquest, was it?—A. Yes, sir.

Q. Did you superintend that? Did you overlook that?—A. Yes, sir.

Q. You had that done?—A. Yes, sir.

Q. So that is a mistake—"I heard a single shot." You heard a number of shots. You say in this testimony: "I do not know whether six-shooter or gun." Did you say that?—A. A six-shooter or a gun?

Q.—A. I can't tell whether it was a six-shooter or a gun or a Winchester or what. I don't know.

Q. I am not asking that now, because you told us you did not hear any pistol shot at all that night.—A. There were two explosions. I don't know whether they were guns or six-shooters.

Q. I am asking you whether you said, on the occasion when you testified before the citizens' committee, that you heard a single shot, but you could not tell whether it was a six-shooter or a gun?—A. They made a mistake, the citizens' committee, there. I told the citizens' committee the same thing I am telling you here now. There was lots of shots. I don't know whether they was six-shooters, guns, or Winchesters.

Q. You told them the same as you are telling here?—A. Yes, sir.

Q. If you are not reported in the same way, it is the fault of the citizens' committee?—A. It might be.

Q. Or the fault of the stenographer, I suppose, who reported you? I only want to get the truth about it. Then you say: "I went down-town, down the street, and saw two men shoot at me." Did you testify to that?—A. No, sir.

Q. You did not testify to anything like that, did you?—A. No, sir.

Q. You now testify you did not see anybody shoot at all?—A. I never saw nobody at all.

Q. You never saw anybody shoot?—A. No, sir.

Q. And nobody shot at you?—A. No, sir.

Q. Then we must strike this out, must we, that two men shot at you that night?—A. Well, I tell you if they shot me, I was dead by this time, I think.

Q. If what?—A. If they shoot me at that time, I was dead by this time, I think, sir.

Q. I only want to know whether you said you saw two men shoot at you?—A. No, sir.

Q. Now this next statement:

Do not know whether citizens or soldiers.

A. I said that; yes, sir.

Q. Did you say that?—A. Yes, sir.

Q. Why did you say you did not know whether they were citizens or soldiers if you had not just told them that two men shot at you?—A. That is a mistake right there, sir. That is why I told you. I couldn't say they were citizens or soldiers, because I never saw nobody shoot.

Q. You never saw anybody shoot?—A. Anybody at all.

Q. You did say, however, that you did not know whether they were citizens or soldiers, but you did not say that two men shot at you. That is the way you want to leave it, is it?—A. No, sir. What I said

there was, I don't know whether they were citizens or soldiers, the ones that shoot that night in the town.

Q. You did not know whether the men who did the shooting were citizens or soldiers?—A. No, sir.

Q. So we will let that stand, but the other we must strike out, that two men shot at you?—A. Yes, sir; strike it out.

Q. That you saw two men shoot at you. Was there any such thing as that?—A. No, sir.

Q. And no such thing as that happened?—A. No, sir.

Q. Let us see what has been the matter with this committee. I read further:

I turned to cross the street into the alley. They shot at me again.

What have you to say as to that statement?—A. No, sir.

Q. This was the next day, was it not, or within two or three days, at any rate, after the shooting?—A. I think it was the second day.

Q. But the events of that night were then fresh in your memory, were they not?—A. Certainly.

Q. Your recollection at that time of what occurred that night was better, was it not, than it would be after all these months have passed?—A. Oh, certainly; yes, sir.

Q. Did you make any such statement as that to that committee?—A. Well, I never made that statement to the committee, sir.

Q. You what?—A. I never said that.

Q. You never said that?—A. No, sir.

Q. How can you account for their misrepresenting your statement in so many important respects?—A. Well, I don't know how they get that.

Q. You don't know what?—A. I don't know how they write that, because I never said it, sir.

Q. Did you do any shooting?—A. No, sir.

Q. I read further:

Q. Did you shoot back?—A. No; I had no chance. They shot at me the third time.

Did you say that?—A. No, sir.

Q. (Reading:)

Three men with big guns.

Did you say that?—A. No, sir.

Q. Now, pay attention to the next statement here:

I shot back.

Did you say that?—A. No, sir.

Q. (Reading:)

They were dressed in khaki pants.

A. No, sir.

Q. You did not say that either?—A. No, sir.

Q. (Reading:)

Q. You can tell these army guns when they shoot?—A. Yes.

You said all that, did you?—A. Well, I can tell a part of it. Of course, when they used to practice, the white soldiers—but they were different guns, you know.

Q. What is that?—A. When they had practice, the white soldiers, I went once with them to see how they shoot, and had a practice with

them, but they were another kind of guns. They have Mausers, some other kind, and by the explosions I can say more or less the difference between a Winchester and a gun like that.

Q. What I want to know now—I will ask you about guns later—is whether or not you stated to this committee that you could tell these army guns when they shot?—A. I said the same way I am saying right now, that the white—

Q. Did you tell them that or not?—A. No, sir.

Q. You did not tell them that?—A. No, sir; not the same way it is there. I explained the same way I am explaining to you now.

Q. They asked you another question:

Q. These were army guns?—A. Yes.

Is that a mistake, too?—A. It might be, sir. I couldn't tell whether army guns or what kind of guns.

Q. If you did not see anybody shooting, why would they ask you about what kind of guns they were?—A. I don't know.

Q. Can you give us any explanation of that? How many shots did you hear that night altogether?—A. I can't say, sir. I never counted them.

Q. The shooting was all over when you got to the place where Frank Natus was killed?—A. Yes, sir.

Q. At Tillman's saloon?—A. Yes, sir; when I reached the corner, Mrs. Bolack's, at Twelfth street.

Q. Was it all over when you got to the corner of Twelfth and Elizabeth?—A. When I reached the corner of Twelfth street then they stopped shooting, and I crossed to the saloon, and there was no more shooting at all.

Q. Can you tell about how many shots you heard altogether?—A. No, sir; I can't tell.

Q. Your recollection seems to have been better that day, for they asked you this question:

How many shots did you hear last night altogether?—A. About fifty.

Does that refresh your recollection?—A. No, sir.

Q. Did you say the following:

Q. Did you know any soldiers that fired?—A. No.

Is that correct?—A. Know any soldiers what?

Q. I mean were you asked that question, and did you make that answer? Do you recollect anything about it?—A. If I knew any soldiers?

Q. Yes. Were you asked this question:

Q. Did you know any soldiers that fired?

A. That fired that night?

Q. Yes. That is the question they asked. Did the citizens' committee ask you that question and did you answer "No?"—A. That I never knew no soldier at all, or what? I don't understand you, sir.

Q. I only asked you whether that question was asked you by the citizens' committee. I want to find out how much of this testimony is reliable.—A. If I knew any soldiers there?

Q. Just listen to my question and I will make it plain.—A. All right.

Q. What I want to know is whether they asked you this question: "Did you know any soldiers that fired?" And did you answer that question "No." Is that part of it correct?—A. Yes, sir.

Q. That part is correct?—A. Yes, sir.

Q. Do you recollect their asking you that question and your making that answer?—A. If I recollect about the firing from the soldiers? Yes, sir; I answered that.

Q. But all this part that you have commented on specially as not correct should be stricken out. Now I will give it to you. This statement is incorrect: "I heard a single shot?"—A. No, sir.

Q. Did you make that statement?—A. No, sir; I said I heard lots of shots; not one.

Q. I am only asking now to find out how much of this you stated. Did you state to that committee: "I heard a single shot?"—A. No, sir.

Q. That goes out then. (Reading:)

I do not know whether six-shooter or gun.

That goes out also, does it not?—A. Yes, sir.

Q. (Reading:)

I went down town—down the street.

That is correct, is it?—A. Yes, sir; I went to Eleventh street.

Q. Now, the next: "And saw two men shoot at me." That is incorrect?—A. That is incorrect.

Senator WARNER. Senator Foraker, has he not stated all that?

Senator FORAKER. But I am marking it out now. I want to get it exact.

Senator WARNER. It seems to me that has all been gone over.

Senator FORAKER. I want to go ahead just a little bit more. I want to make sure that this witness has a fair chance.

Senator WARNER. You are sure that is your purpose?

Senator FORAKER. I have no other purpose.

By Senator FORAKER:

Q. Now, the next sentence to which I call your attention: "Do not know whether citizens or soldiers." That stays in?—A. Yes, sir.

Q. (Reading:)

I turned across the street into the alley.

What alley was that?—A. I don't know, sir.

Q. That is incorrect?—A. Yes, sir.

Q. Then we shall take that all out, shall we? Now, the next sentence: "They shot at me again."—A. Yes, sir.

Q. Then in the next line: "They shot at me the third time." That goes out, does it?—A. Yes, sir.

Q. (Reading:)

Three men with big guns.

Does that go out?—A. Yes, sir.

Q. All that whole sentence? You did not see any three men with big guns?—A. No, sir.

Q. (Reading:)

I shot back.

That goes out?—A. That goes out, too; yes, sir.

Q. (Reading:)

They were dressed in khaki pants.

That goes out?—A. Yes, sir.

Q. There is not much left of that statement, then. Where were you during this day of the 13th of August?—A. In the day?

Q. Yes, during the day.—A. I was on duty on Elizabeth street.

Q. You were on Elizabeth street on day duty, were you not?—A. On day duty; yes, sir.

Q. And your beat when you were on day duty extended from what point to what point, on what streets?—A. My beat?

Q. Yes.—A. Is from Tenth street to Twelfth street.

Q. From Ninth to Twelfth?—A. No; from Tenth street. That would make it from the post-office. That is Tenth street. The First National Bank is Eleventh street, and Twelfth street, and Miller's Hotel makes it Thirteenth street. I had four blocks.

Q. You had four blocks, extending from the Miller Hotel down to the post-office?—A. Yes, sir.

Q. Just up and down that street?—A. Yes, sir.

Q. That is the busy part of the town, is it?—A. Yes, sir.

Q. Is Weller's saloon along there somewhere?—A. Yes, sir.

Q. On your beat?—A. Yes, sir.

Q. Is Crixell's saloon on your beat?—A. Yes, sir.

Q. And Tillman's saloon?—A. Yes, sir.

Q. How many other saloons are on those four blocks?—A. On four blocks, you mean?

Q. Four blocks.—A. I mean from north to south there is only three saloons.

Q. Just the three you have mentioned?—A. Yes, sir.

Q. Were you not infrequently in Weller's saloon?—A. Well, Weller's saloon, Crixell's saloon, and Tillman's saloon.

Q. You were liable to be in one of those saloons at almost any time, were you?—A. Yes, sir.

Q. When you were not on duty, I suppose?—A. Sometimes I would go with a friend inside when I am on duty.

Q. Sometimes you would go in when you were on duty?—A. Yes, sir.

Q. And soldiers and others were frequently in there?—A. Yes, sir.

Q. And you became pretty well acquainted with some of them?—A. With white soldiers; yes, sir.

Q. Do you know William J. Rappe, a private soldier of the Twenty-sixth Infantry, a white soldier?—A. I don't remember very well about him, but I used to hear that name at the post there. I think he used to belong to M Company.

Q. Did you ever make any statements to him or in his presence that were indicative of hostility to these soldiers?—A. No, sir.

Q. Nothing of that kind?—A. No, sir.

Q. You had no objection whatever to the colored soldiers coming there, had you?—A. Sir?

Q. You had no objection whatever to the colored soldiers coming there?—A. No, sir.

Q. In fact, as I understood you, you were rather fond of them? You went up to the parade ground and listened to the music?—A. Yes, sir.

Q. You were in the habit of doing that?—A. Yes, sir.

Q. How frequently did you do that?—A. Most every evening.

Q. What kind of music did they have?—A. They had a little band, out of B Company, about eight or nine of themselves.

Q. What kind of a band was that?—A. A little band, brass band.

Q. B Company brass band?—A. Yes, sir.

Q. They had regular horns?—A. Yes, sir.

Q. And drums and made regular music?—A. Yes, sir; they practiced music themselves after their retreat.

Q. After what?—A. After retreat.

Q. Did they go out and play on the parade ground when they had dress parade?—A. I never saw them to.

Q. You never went to dress parade?—A. No, sir.

Q. Were you ever there for guard mount?—A. One morning; yes, sir.

Q. Did this band play then?—A. No, sir.

Q. So you think there were only eight pieces in that band?—A. Yes, sir.

Q. A very small band, was it not?—A. That is all the number I saw there.

Q. Are there not generally a dozen of these brass horns, at any rate, in a band of that kind?—A. Well, there might be more than that, but the only number that I saw were eight. They were playing at the porch to the left of the quarters.

Q. B Company belongs over there [indicating]. I wish, Senator Bulkeley, you would point out the locations on the map. I want to locate where you saw that band play. Meanwhile, how often did you go there to hear the band play?

By Senator BULKELEY:

Q. Here is the gate; here is Elizabeth street; this is B barracks; this is D, and this is C.—A. That is the one, B Company, the middle quarters. I used to go there.

By Senator FORAKER:

Q. About where was the band when it played?—A. In B Company.

Q. I mean was it inside or outside the barracks, and if outside, was it over on the parade grounds?—A. No; on the north side of the quarters.

Q. On the north side?—A. Yes, sir.

Q. That is, between the quarters and the brick wall?—A. No; they used to play upstairs.

Q. Oh, they played upstairs?—A. Upstairs; yes, sir.

Q. Out on the porch?—A. Yes, sir.

Q. Did you ever see them down below playing?—A. No, sir.

Q. Did they have a regular leader, a leader of the band?—A. No, no; they would just practice. Each one had a paper there and practiced music.

Q. Each one had what?—A. A paper of music there, and just practicing to play it.

Q. That is, they had regular sheets of music?—A. Yes, sir.

Q. Did they have these regular racks for holding the music?—A. Yes, sir.

Q. And they would set the racks out in front of them?—A. One sat there [indicating], and another standing up, and another talking. It was not regular music.

Q. That is something new, was the reason I wanted to get at it particularly.—A. Yes, sir.

Q. Where were you when you saw this; down below?—A. I was down just in front of them. Lots of people, boys and kids, used to go there and watch them.

Q. You never went inside of the barracks, did you?—A. Yes, sir.

Q. Did you ever go up onto this gallery where they were playing?—A. No, sir; not upstairs; just downstairs. They would have drinking water there always.

Q. You have just been inside, down below?—A. Inside.

Q. How often were you in the barracks?—A. Most every evening.

Q. You would go up and go inside the barracks?—A. Inside of the barracks.

Q. About what time in the evening would this band play?—A. I think it was always about half past 5 or a quarter to 6; something like that.

Q. That would be long before dark?—A. Yes, sir.

Q. That was in August, was it not?—A. Yes, sir.

Q. How long were these troops there?—A. I think it was about two months; nearly two or three months.

Q. Then they must have come there as early as May, do you think?—A. I don't remember about the month they came, but I think it was about two or three months.

Senator FORAKER. Now, I want to ask this witness some other questions that I am not prepared to ask him to-night. I would like to have him stand aside, therefore, subject to a recall.

By Senator SCOTT:

Q. Witness, do you know any reason why these soldiers would have any spite against the citizens of Brownsville, to want to shoot up the town and kill people?—A. No, sir; I don't know anything about it.

Q. And you never heard them threaten anybody who was in the barracks, did you?—A. No, sir; oh, no. They used to treat everybody right there.

By Senator FORAKER:

Q. They were very well-behaved people, were they not?—A. Yes, sir; very orderly, and I never saw one drunk.

Q. You never saw one drunk, and you were on this Elizabeth street beat?—A. Always; yes, sir.

Q. Every day?—A. Every day and sometimes part of the night.

Q. And you never saw one of them drunk?—A. No, sir.

Q. During the whole time?—A. No, sir.

Q. It was your business to watch?—A. Yes, sir.

Q. Do you remember when they had pay day?—A. Yes, sir; it was the quietest day I ever saw.

Q. It was very different when the white soldiers were there?—

A. Yes, sir; the white soldiers used to know lots of people and just have a little fun, but it didn't amount to nothing.

Q. The white soldiers, when they had pay day, would go and spend a good deal of their money in saloons?—A. Yes, sir.

Q. But the colored soldiers were much better in that respect?—A. Yes, sir; they used to go to the saloon and have drinks in the back there, and they never said a word and would go out.

Q. They were fine, orderly looking soldiers?—A. Yes, sir.

Q. Good discipline?—A. Yes, sir; good soldiers. Good discipline, too.

Q. Favorably with the Twenty-sixth Infantry, the white regiment there just ahead of them?—A. Well, of course I don't know nothing about—

Q. Or any other regiment?

Senator WARREN. Let him answer.

A. But they were all right. To my knowledge I think they were better than the white soldiers—that is, on discipline.

By Senator FORAKER:

Q. Better in discipline?—A. Yes, sir.

Q. If anything, they were a good deal better in their habits, apparently?—A. Well, two or three months they were there; yes.

Q. You never saw one of them drunk all the time you were there?—A. No, sir.

Q. You were in a situation where you could have known about it if they had been drunk, were you?—A. Certainly.

Q. Or disorderly?—A. Certainly.

Q. You never arrested one?—A. No, sir.

Senator FORAKER. That is all for the present. I will have to bother you to come back again.

Senator WARNER. Then I will ask no other question now.

By Senator PETTUS:

Q. What was the name of the saloon you spoke of where you went after the shooting was over?—A. The name of the saloon—the Ruby saloon. That is Mr. Tillman's saloon.

Q. Who owned it?—A. Mr. Tillman.

Q. That is where the counter was divided?—A. Yes, sir; that is the same saloon.

Q. The counter was divided, one-half of it for white people and the other half for the colored?—A. Yes, sir.

Q. Did you notice the shots that were there?—A. Notice what?

Q. Where the balls struck the house.—A. Oh, yes. That night we saw about three. The next day we saw all around there. There was about five or six on that wall there.

Q. Is that where the man was killed?—A. Yes, sir.

By Senator WARNER:

Q. Do you know where the saloon that was opened for the colored people was?—A. Yes, sir; there was one.

Q. Where was that?—A. That was on Sixteenth street. It is just front to the wall of the post.

Q. It is the street between the barracks and the town?—A. Yes, sir.

By Senator BULKELEY:

Q. Where at along this wall [indicating]?—A. It is at the corner of the fence.

Q. Away out here [indicating]?—A. Yes, sir.

By Senator WARNER:

Q. That was not on your beat?—A. No, sir.

Q. You know nothing about that?—A. No, sir.

By Senator BULKELEY:

Q. How long had that been opened?—A. I think ten or fifteen days after the troops got there.

The CHAIRMAN. You are excused until to-morrow morning.

TESTIMONY OF FELIX VALDEZ CALDERON.

FELIX VALDEZ CALDERON, being first duly sworn, testified (through the interpreter) as follows:

By Senator WARNER:

Q. Give your name in full.—A. Felix Valdez Calderon. Everybody calls me Calderon.

Q. How long have you lived in Brownsville?—A. I have lived in Brownsville about twenty-five years.

Q. How long have you been on the police force?—A. I have been there seven years, going on eight.

Q. Were you on the force on the night of August 13 last?—A. Yes, sir.

Q. Did you hear the shooting on that night?—A. Yes, sir.

Q. As I understand, you did not see any of the parties who did any of the shooting?—A. No, sir.

Q. Where was the shooting you heard; in what direction did it come from?—A. My position was on Fifteenth street that night.

Q. Where did you hear the first of the shooting?—A. In the direction of the door or gate of the barracks, near Elizabeth street.

Q. Was your beat out beyond Adams street?—A. Yes, sir.

Q. This shooting, after you heard it in the direction of the gate of the barracks, what direction did it seem to go from there?—A. Going in the direction toward the center of the city.

Q. What was the nature of that shooting, whether it was that of pistols or of guns?—A. The first two or three shots occurred when two companions were with me.

Q. Who were they?—A. Vidal Rivas and Caesario Leal.

Q. What direction did you go then, after the shooting commenced?—A. From the point where we were, we went two squares in the direction of the shots.

Q. And then where did you go?—A. When I reached the corner I was a little bit in front, and then I heard many shots.

Q. What corner were you on then—what street? Was it as far down as Adams street?—A. I had not reached Adams street.

Q. Then which way did you go?—A. I said to my companions, the policemen, being very tired, "Let us stop here." I said to them, "We will stop here. There are a great many shots, and it is certainly

the negroes that have pronounced against the city—declared against the city—and if the negroes have risen against the police, it is not our business.” Then the sergeant said, “Let us go to the city hall.”

Q. When you say “not your business,” do you mean if the soldiers arose there were too many of them for the police to tackle?—A. There were many shots. It was not a question of two or three drunken men, but there were a great many shots.

Q. Why did you not go down and attempt to arrest them?—A. Because one of my companions, Vidal Rivas, who had been a soldier, said, “These shots are not pistol shots, but it is a question of soldiers.”

Q. Where did you go then?—A. To the city hall.

Q. Why did you go to the city hall?—A. To receive orders from the lieutenant.

Q. Who did you find at the city hall?—A. Everthing was quiet, and in a few moments I heard footsteps, and it was Marcellus Daugherty.

Q. Did you inquire for the lieutenant of police, and what did you learn about him?—A. Yes, sir.

Q. What was told you he had become of the lieutenant of police?—A. In questioning Daugherty, “What do so many shots mean,” he did not know. The man guarding the city hall said that when the shots commenced the lieutenant and two others went there.

Q. Did you see the lieutenant that night?—A. Very much after this.

Q. That was after he was wounded, I take it, that night?—A. Yes, sir. When the men who guarded the city hall said that the lieutenant had gone in that direction, I said to Daugherty, “Let us go along Commercial street.”

Q. Does that mean Commercial or Elizabeth street?—A. Commercial street means Elizabeth street.

Q. What did you do?—A. When we reached the corner of the streets there it was very silent, and in a few minutes there came out Genaro Padron.

Senator FORAKER. I did not get the place from which Padron came?

A. About the middle of the square of Elizabeth street.

By Senator WARNER:

Q. What did Padron say, if anything?—A. I first spoke to him as he came running—“What of the lieutenant?” He said, “The lieutenant and Macedonio Ramirez and Briseño do not appear, and who knows if the negroes have not killed the lieutenant?”

Q. Then where did you go?—A. I said “Let us go and look for the lieutenant.” Then Genaro said “Here is the mayor.”

Q. There you met the mayor, did you?—A. Yes, sir.

Q. Then you went to see what?—A. Then I said “Let us go and see what the mayor says.”

Q. Did you that night or the next morning pick up any exploded shells?—A. On the morning of the 14th, now that daylight had come I went in company with the chief of police, and we entered the Hote Miller alley. The first entrance to that alley is on Twelfth street That starts from the city hall.

Q. You mean you entered it first on Twelfth street?—A. We entered the alley which runs to the Miller Hotel.

Q. Where did you enter that?—A. Here is Twelfth street, along which we went, and there [indicating] we turned the corner, entering the alley..

Q. You entered the alley at Twelfth street. That is what I thought, and you went down that alley to the Miller Hotel, did you?—A. Yes; but before we reached there we commenced to find shells.

Q. That is, cartridges that had been fired?—A. Empty cartridges; that is, large ones.

Q. State about how many you found.—A. There we found very few.

By Senator FORAKER:

Q. What place was that?—A. In the alley, before arriving at Thirteenth street, we found very few.

By Senator WARNER:

Q. Well, go on.—A. And before crossing Thirteenth street we saw an old man, and seeing that he was picking up something I went ahead of the chief of police and I said to him, "What have you found, Juan?" He said, "Here is a thing; who knows what it is? Look at it." I said, "These are things which belong to the negroes. Give them to me, in order that I may give them to the chief of police."

Q. Was it like that [handing witness a bandolier]?—A. Entirely equal. If it is not the same, it is another one just like it.

Senator WARNER. Let the record show that the witness is handed a bandolier.

A. It was a thing just like this that the old man found. The old man had it thus [indicating].

By Senator WARNER:

Q. What was the name of the man you mention?—A. Juan Cerda.

Q. He was an old man engaged in the vegetable business, was he not?—A. He takes vegetables to the market and to the hotel.

Q. Tell us, now, about the shells that were found there at the Miller Hotel.—A. I left the chief of police and went all along the alley. Passing Fourteenth street, upon one and the other side of the alley there were many empty shells thrown there. Going along the alley upon this hand is the house of Louis Cowen.

Q. Upon which hand?—A. The right.

Q. The right hand, going towards the fort?—A. Going towards the fort.

Q. On the right hand was what?—A. Upon the city side is the house of Ygnacio Garza.

Q. What did you find there?—A. There were many empty shells.

Q. Did you pick up those empty shells for cartridges?—A. Yes, sir; and some with the bullet or ball.

Q. What did you do with those cartridges or shells?—A. I delivered them over to the chief of police.

Q. You know the kind of cartridges that are shot out of the army rifle?—A. Yes, sir; all were the cartridges such as are used by the troops of the Government.

By Senator LODGE:

Q. Are they like that [handing witness an empty shell]?—A. They were long. I believe that they were like this, but long. They were long and had a steel bullet.

By Senator BULKELEY:

Q. Do you say they were longer than those?—A. Those which had bullets seemed to me long. [A cartridge was handed to the witness.] This is it.

By Senator WARNER:

Q. You turned over the ones you picked up to the chief of police?—A. Yes, sir.

Q. About how many did you pick up, if you remember?—A. More than fifteen, I picked up there.

By Senator FORAKER:

Q. More than fifteen?—A. More than fifteen.

Q. That is, you picked up that many altogether?—A. I first picked up two or three, and the rest at that point where they shot at the house of Louis Cowen.

By Senator WARNER:

Q. What time in the morning of the 14th of August was this?—A. It was quite clear, and you could see very well.

Q. But can you give about the time of day—what o'clock it was?—A. I am not certain as to the hour. I don't wish to state, for fear of making a mistake, but it was very clear—daylight.

Q. Was it early in the morning?—A. Very early in the morning.

Q. Was it before the sun was up?—A. Oh, yes.

Q. But it was daylight?—A. Oh, yes; you could distinguish very well then.

Q. Did you look for those exploded cartridges at any other place except this?—A. I went all along the alley.

Q. How many did you pick up altogether?—A. Those which I delivered to the chief of police were a bundle of them, about 15, possibly 18, but I can not state positively.

Q. Did you see other people pick up shells there?—A. Oh, yes; there were some in other places.

Q. And the chief, I suppose, picked up some there, did he?—A. Also, with his own hand. Afterwards he told that to me.

Q. You went on down to the barracks, did you not?—A. I went very near to the wall, when a person came out who looked like a sergeant or a lieutenant, because he had red leggings and a pistol at the belt or waist, and he had entered the alley, and I saw him pick up about two cartridges.

Q. This man you took to be an officer, you say?—A. On account of the uniform, because only officers wear red leggings and a pistol.

By Senator FRAZIER:

Q. Was he a white man?—A. Yes, sir.

By Senator WARNER:

Q. Then you went back to the barracks, did you?—A. I remained there and saw the officer return to the very border of the wall.

Within was a black soldier with a carbine, and I saw that he showed him the two cartridges.

Q. Did you at any time that morning find a cap or hat?—A. A sombrero; no, neither.

By Senator FORAKER:

Q. How far were you from this officer when he picked up those shells?—A. I was at a distance about equal to from where I am standing to that door.

Q. That would be how many feet, perhaps? Would it be 40 feet?—A. I do not wish to say by feet, because I might be mistaken; but it was a distance a little more or less than from here to that door [indicating].

Q. Did you speak to the officer?—A. No, sir.

Q. Did he speak to you?—A. No, sir.

Q. Did you go up to where he was?—A. No, sir; I turned to see where the chief of police was, and he made a sign for me to come to him.

Q. About where were you with reference to the Cowen house when you saw this officer?—A. All the alley.

Q. Were you right by the Cowen house?—A. No; I was quite a distance away, near the edge of the barracks.

Q. Nearer to the fort?—A. Yes, sir.

Q. Did you find any of these cartridge shells between the Cowen house and the point you reached going towards the fort?—A. No; not between the barracks and the lot of Cowen.

Q. Nothing between the barracks and the lot of Cowen?—A. Nothing there, but only in the alley.

Q. What was it you saw the officer do?—A. He showed what he had in his hand to the soldier, and then entered the gate of the fort or barracks.

Q. Where were you when you first saw this officer?—A. I was at a distance a little larger than the distance I have already indicated, going towards the fort. When the officer came out, the wall of the fort and the walls of the city make a corner, and he appeared right at the corner, and then I stopped.

Q. Did the officer approach the alley from the direction of the gate to the fort?—A. I can not say, positively, but certainly; because he first appeared when he passed the corner of the alley.

Q. Coming from that direction?—A. Yes [indicating with paper on the table]. This represents the wall of the barracks.

Q. Show it on the map.—A. I do not understand the map.

Q. Well, I will waive the question. Did you see Mrs. Leahy that night?—A. No, sir.

Q. She is the woman who keeps the hotel?—A. Yes, sir.

Q. You know her very well?—A. Very well.

Q. Were you in her house that night, at all?—A. No, sir.

Q. She has testified that she took two policemen in her house that night and put them into a room and kept them there about two hours. Can you tell us which two they were?—A. I am going to say to you this: You remember that Padron said that there were lacking Macedonio Ramirez and José Coronado and Briseño. These are the ones that Padron said were lacking.

Q. Three of them, including Macedonio Ramirez?—A. Macedonio Ramirez; yes, sir.

Q. Yes. Ramirez was lacking. Did Padron say that he did not know where he was?—A. That he did not know where he was.

Q. When did Padron say that?—A. When we went out with Daugherty.

Q. To the city hall?—A. Yes, sir.

Q. Did Padron tell you at that time that he had not seen Ramirez that night?—A. Nor José Coronado, Briseño, and the lieutenant.

Q. Did you ever hear of two other policemen being shut up in the house of Mrs. Leahy that night?—A. Yes, sir.

Q. Which two were they?—A. José Coronado and Briseño.

Q. Did you ever hear them say that they were shut up in that way?—A. This same night I knew it. I said, "There are two companions lacking; let us go and hunt them." At this moment Lawyer Parks arrived. He is now dead. He was killed on the second floor of the house of the Señora Leahy.

Q. I will ask you about that directly. Go on.—A. I wished to go and look for them when Lawyer Parks came and spoke to the chief of police. Then the chief said to me, "Wait;" and Lawyer Parks said, "Coronado and Briseño are in the house of Mrs. Leahy."

Q. Did you ever find out how they happened to be there and how long they were there and what they were there for?—A. Lawyer Parks said that they escaped in that manner, because the soldiers wished to kill them.

Q. They were there, then, as in a place of safety, were they?—A. Perhaps; he went to bring them and the chief and I remained there.

Q. Were they on duty in that neighborhood that night?—A. Yes, sir.

Q. What street were they on?—A. One was between Thirteenth and Fourteenth and the other was on Commercial street.

Q. Are those two policemen here to testify as witnesses?—A. No, sir.

Q. They are not here?—A. No, sir.

Q. Have they ever testified at all, do you know?—A. I do not know.

Q. Do they speak the English language or only the Spanish language?—A. One of them speaks English.

Q. Which one?—A. Briseño.

Q. Are they old police officers?—A. Yes, sir.

(At 4 o'clock and 10 minutes p. m. the committee adjourned until to-morrow, Tuesday, May 21, 1907, at 10.30 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, May 21, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

The CHAIRMAN. The Chair will at this point present a brief letter from the Secretary of War inclosing a supplemental report from Lieutenant Hawkins concerning certain bullets that have been fired, and also a photograph of two bullets, enlarged, illustrating different lengths of land marks made on United States model of 1903 ammunition fired from a Mauser rifle and a Springfield rifle, respectively.

(The letter and report referred to are as follows:)

WAR DEPARTMENT,
OFFICE OF THE SECRETARY.

[Memorandum for the chairman of the Committee on Military Affairs, United States Senate.]

Report of Lieut. W. J. Hawkins on results obtained in examination of three bullets received by him March 22, 1907, for the purpose of identification in connection with the Brownsville affray.

Respectfully forwarded to the chairman of the Committee on Military Affairs, United States Senate.

WM. H. TAFT.
Secretary of War.

MAY 14. 1907.

SPRINGFIELD ARMORY,
Springfield, Mass., April 25, 1907.

The CHIEF OF ORDNANCE, U. S. ARMY.

Washington, D. C.

(Through the commanding officer, Springfield Armory.)

SIR: I. In obedience to your verbal instructions, I have the honor to submit the following report as to the identity of three bullets turned over to me March 22, 1907, in the room of the Senate Committee on Military Affairs, Washington, D. C., for examination.

II. These bullets were personally brought by me to the Springfield Armory and were there examined, as follows:

They were first examined and compared visually with United States model of 1903 bullets known to have been fired from United States model of 1903 rifles. This work was done with jewelers' eyeglasses and with a Bausch & Lomb microscope. This visual examination showed marked similarity and no discrepancies between these three bullets and the bullets of model of 1903 ammunition described above. This visual comparison covered the following points:

- (a) Similarity of general shape.
- (b) Similarity of general size.
- (c) Similarity of crimping of jacket over base of bullet.
- (d) Similarity of rifling marks as to depth, width, and twist.
- (e) Similarity of shape of base.

III. The above-described visual comparison was then supplemented by dimension and weight measurements, which appear below.

IV. Bullet marked with "X" on jacket near base, contained in envelope marked "Steel-jacketed bullet received in evidence in connection with the testimony of Miss Gertrude Cowen."

Name of weight, dimension, or number.	Prescribed weight, dimension, or number for U. S. magazine rifle, model of 1903.	Measured weight, dimension, or number as determined from the above-described bullet.
Weight	220 grains.....	{218.4 grs., U. S. B. S. 218.3 grs., S. A.
Number of lands	4	4.
Number of grooves	4	4.
Width of lands	".058905.....	".0547.
Width of grooves	".176715.....	".18092 (by difference).
Diameter across lands	".300 to ".301	".2996 mean.
Diameter across grooves	".308 to ".309	".3087 mean.
Twist of rifling	1 turn in 10"	1 turn in 10", visual parallel method.
Length	1".255 to 1".265	1".268.

V. Bullet marked "X" in two places on side, contained in an envelope marked "Steel-jacketed bullet received in evidence in connection with testimony of Ygnacio Garza."

Name of weight, dimension, or number.	Prescribed weight, dimension, or number for U. S. magazine rifle, model of 1903.	Measured weight, dimension, or number as determined from the above-described bullet.
Weight	220 grains.....	{218.4 U. S. B. S. 218.3 S. A.
Number of lands	4	4.
Number of grooves	4	4.
Width of lands	".058905.....	".05215.
Width of grooves	".176715.....	".18347 (by difference).
Diameter across lands	".300 to ".301	".300 mean.
Diameter across grooves	".308 to ".309	".308 mean.
Twist of rifling	1 turn in 10"	1 turn in 10" visual parallel method.
Length	1".255 to 1".265	1".235.

VI. Bullet marked "X" on side near base and with a crude "P" on side of ogive, contained in an envelope marked "Steel-jacketed bullet received in evidence in connection with the affidavit of Maj. A. P. Blocksom."

Name of weight, dimension, or number.	Prescribed weight, dimension, or number for U. S. magazine rifle, model of 1903.	Measured weight, dimension, or number as determined from the above-described bullet.
Weight	220 grains.....	{200.8 U. S. B. S. 200.2 S. A.
Number of lands	4	4.
Number of grooves	4	4.
Width of lands	".058905.....	".054.
Width of grooves	".176715.....	".181622.
Diameter across lands	".301 to ".302	".3005 mean.
Diameter across grooves	".308 to ".309	Too much deformed to measure.
Twist of rifling	1 turn in 10"	1 turn in 10" visual parallel method.
Length	1".255 to 1".265	1".262.

VII. It is evident from an examination of the above-described bullets, that the deformations received on impact are sufficient explanation of the variations from prescribed dimensions. The variation in the width of the lands may also be accounted for by wear and a certain minus variation which has been found to occur in the manufacture of the barrel. The marks of the lands on several bullets known to have been fired from United States magazine rifles, model of 1903, have been found to measure ".054."

VIII. With a view to ascertaining what differences exist between the Mauser 7.65 mm. bullet and the bullet of the United States model of 1903, ammunition, two Mauser bullets were fired from a Mauser 7.65 mm. rifle (Argentine, model of

1891), and recovered. These bullets were then measured, with the results given in the table following:

Name of weight, dimension, or number.	Prescribed weight, dimension, or number for U. S. magazine rifle, model of 1908.	Measured weight, dimension, or number as determined from the above-described Mauser bullets.		
Weight	220 grains	210	211	
Number of lands	4	4	4	
Number of grooves	4	4	4	
Width of lands	" .058905	" .0678	" .0571	
Width of grooves	" .176715	"	"	
Diameter across lands	" .300 to " .301	" .304	" .302	
Diameter across grooves	" .308 to " .309	" .314	" .314	
Twist of rifling	1 turn in 10"	1 turn in 10"	1 turn in 10"	
Length	1" .255 to 1" .265	1" .197	1" .198	

It was also noted that these Mauser bullets have a conically cupped base instead of the square base of the United States, model of 1903, bullet. The ogive of the Mauser bullet is also more blunt than that of the United States, model of 1903, bullet. Still another point of difference between the Mauser bullet and the United States, model of 1903, bullet is found in the rough canellure made in the Mauser bullet by the method of crimping the cartridge case to the bullet; this canellure not being present in the United States, model of 1903, bullet. Mauser 7".65 mm. ammunition of different years of manufacture were examined, but no difference in the model of the bullet was detected.

IX. Three rounds of 7 mm. Mauser ammunition were fired in a Mauser carbine (Argentine, model of 1906) and the bullets recovered. These bullets were recovered and measured with the results noted in the following table:

Name of weight, dimension, or number.	Prescribed weight, dimension, or number for U. S. magazine rifle, model of 1903.	Measured weight, dimension, or number as determined from the above described Mauser bullets.		
Weight	220 grains	173.2 grains	173.2 grains	173.2 grains.
Number of lands	4	4	4	4.
Number of grooves	4	4	4	4.
Width of lands	" .058905	" .065	" .061	" .0513.
Width of grooves	" .176715	"	"	"
Diameter across lands	" .300 to " .301	" .278	" .278	" .2785.
Diameter across grooves	" .308 to " .309	" .2867	" .2865	" .2869.
Twist of rifling	1 turn in 10"	1 turn in 10"	1 turn in 10"	1 turn in 10"
Length	1" .255 to 1" .265	1" .213	1" .2098	1" .211.

Like the Mauser 7.65 mm. bullets, the Mauser 7 mm. bullets have a conically cupped base and are marked with a rough canellure.

X. With a view to determining what difference, if any, exists between United States model of 1903 bullets when fired from a 7.65 Mauser rifle and when fired from a United States magazine rifle, model of 1903, two United States, model of 1903 bullets were assembled in Mauser cartridge cases and fired in a 7.65 mm. Mauser rifle (Argentine, model of 1891), and two other United States model of 1903, bullets were fired from a United States, model of 1903, rifle. All four of these bullets were fired into white-pine butts and recovered. These bullets were then measured, with the results shown in the following table:

Name of weight, dimension, or number.	Weight, dimension, or number as determined from the bullets "x" and "2" fired from the Mauser rifle.		Weight, dimension, or number as determined from the bullets "3" and "4" fired from a United States, model of 1903, rifle.	
	"x."	"2."	"3."	"4."
Weight	220 grains.....	220 grains.....	219.1 grains.....	218.0 grains.....
Number of land marks.....	4.....	4.....	4.....	4.....
Number of groove marks.....	4.....	4.....	4.....	4.....
Width of land marks.....	".0594 top.....	".0567 top.....	".0610 top.....	".0580 top.....
	".0541 bottom.....	".0521 bottom.....	".0495 bottom.....	".0516 bottom.....
Diameter across land marks.....	".3080.....	".3025.....	".3012.....	".3010.....
Diameter across groove marks.....	".3137.....	".3135.....	".3090.....	".3084.....
Twist of rifling.....	1 turn in 10" visual method.	1 turn in 10" visual method.	1 turn in 10".....	1 turn in 10".....
Length of bullet.....	1".252.....	1".265.....	1".2722.....	1".2583.....
Mean length of land marks.....	".7762.....	".7550.....	".820.....	".830.....

Two Mauser 7.65 mm. bullets, marked "5" and "6," were disassembled from their cartridge cases and measured up, with the following results:

	Bullet No. 5.	Bullet No. 6.
Weight	210.7 grains.....	211.2 grains.....
Diameter	".3108.....	".3103.....
Length	1".2097.....	1".2022.....

The corresponding dimensions of United States, model of 1903, bullets are:

Weight ----- 220 grains.
Diameter ----- ".308 to ".3085
Length ----- 1".255 to 1".265

XI. From the tabulated data in the preceding paragraphs the following difference between United States, model of 1903, bullets as fired from Mauser 7.65 mm. rifles and as fired from United States, model of 1903, rifles were found:

(a) When fired from a Mauser 7.65 mm. rifle the diameters of the bullets, both as to lands and grooves, are greater than when fired from a United States, model of 1903, rifle.

(b) When fired from a Mauser 7.65 mm. rifle the length of the land marks on the bullets is less than when fired from the United States, model of 1903, rifle. These differences in the bullets as fired from the two rifles are readily accounted for by the fact that the bore of a 7.65 mm. Mauser rifle is slightly larger in diameter than that of a United States, model of 1903, rifle.

The bore dimensions of the two rifles used in connection with the firings noted in the preceding paragraph were as follows:

U. S. magazine rifle, model 1903: Bore, ".2998; grooves, ".3078.

Mauser, 7.65 mm., model 1891: Bore, ".302; grooves, ".3137.

XII. The mean lengths of the land marks on the bullets described in paragraphs IV, V, and VI were measured and found to be respectively as follows: ".840, ".830, and ".860.

Whereas the mean lengths of the land marks on United States model of 1903 bullets fired from a Mauser 7.65 mm. rifle were found to be ".7762 and ".7550.

(See Par. X.) This difference is so great as to be readily detected by the eye, as may be seen from an examination of bullets "x," "2," "3," and "4" herewith or from an examination of the photograph of bullets "x" and "4" herewith.

XIII. The cause of this difference in length of land marks as between the two rifles may be readily illustrated by setting micrometer callipers first at .300 then at .302 and noting the longitudinal distance between the points on the ogive of the bullet where the callipers at these two settings come to a bearing.

XVI. Still another difference as between model of 1903 bullets fired from Mauser 7.65 mm. and from United States model of 1903 rifles has been noted. This difference lies in the markings of the base of the lead core produced by the impact of the powder grains. As the shape of the powder grain of the Mauser 7.65 mm. cartridge is that of a flat rectangular plate, whereas the powder grain of the United States model of 1903 cartridge is that of a short section of a cylinder. These grains produce different and characteristic markings on the soft base of the lead core, as will be noted from a comparative examination of the bases of bullets "x," "2," "3," and "4" herewith. Unfortunately, the bullets described in Paragraphs IV, V, and VI are too much deformed to apply this additional identity test.

XV. In conclusion, it may be stated: (a) That the three bullets referred to in Paragraphs IV, V, and VI above are beyond a reasonable doubt from United States ammunition, model of 1898 or model of 1903.

(b) That these three bullets were not fired from Mauser 7.65 mm. rifles or from Mauser 7 mm. rifles.

(c) That these three bullets were fired from either the United States model of 1898 rifle or from the United States model of 1903 rifle.

XVI. In all of the work of identification reported above I have been assisted by Mr. G. A. Spooner, inspector, United States Armory, who concurs with the statements and findings of this report.

Respectfully,

WILFORD J. HAWKINS,
Lieutenant, Ordnance Department, U. S. Army.



Bullets from U. S. model of 1903 ammunition, illustrating different lengths of land marks. Left bullet from Mauser 7.65 mm. rifle; right bullet from U. S. model 1903 rifle.

[First indorsement.]

SPRINGFIELD ARMORY, MASS., April 26, 1907.

Respectfully forwarded to the Chief of Ordnance, U. S. Army.

FRANK H. PHIPPS,
Colonel, Ordnance Department, U. S. Army, Commanding.

[Second indorsement.]

OFFICE OF THE CHIEF OF ORDNANCE,
Washington, May 13, 1907.

Respectfully forwarded to the Honorable the Secretary of War.

This report relates to three bullets recovered, in connection with the Brownsville riot, namely: One relating to the testimony of Miss Gertrude Cowen, one relating to the testimony of Ygnacio Garza, and one relating to the affidavit of Maj. A. P. Blocksom. The effort of the investigation has been to determine whether or no the bullets are of the United States Army pattern and whether they could have been fired from any other gun than the United States magazine rifle of the model of 1903.

The conclusion is that the bullets are of the United States Army pattern, and that they could have been fired from the United States magazine rifle of the model of 1898 (Krag-Jørgensen) or from the United States magazine rifle of the model of 1903, and from no others.

WILLIAM CROZIER,
Brigadier-General, Chief of Ordnance.

TESTIMONY OF FELIX VALDEZ CALDERON—Continued.

By Senator FORAKER:

Q. Where were you when the firing commenced? I did not understand that you stated specifically where you were. You said somewhere out on Adams street. State exactly where you were.—A. On Fifteenth street.

Q. State at what point. How many squares were you away from the gate of the garrison? That is, where were you on Fifteenth street?—A. Five squares away.

Q. Give the name of the street running into Fifteenth street at the point where you were. Mention it by name.—A. I passed from Fifteenth street to Fourteenth street.

Q. On what street did you go to Fourteenth street?—A. On Adams street.

Q. On what street were you standing when the firing commenced? You said you were on Fifteenth street near some other street. I want to know what it was.—A. On the corner of Fifteenth street, near an old house that was called the House Casamiro Tamay.

Q. What street is parallel to Adams street, next east of Adams?—A. I don't remember the name of the street which is on this side of Adams street. It is impossible for me to remember just now.

Q. I want to know whether you were east of Adams street on Fifteenth street; and if so, how far east?

Senator WARNER. Had you not better have the interpreter explain to him that by east of Fourteenth we mean up, on that map?

By Senator FORAKER:

Q. That is Fifteenth and Adams streets [indicating on map]. You say you were on that street, Fifteenth street, east of Adams street, somewhere. I want to know how far east you were. That is the barracks road that I am talking about, Fifteenth street.—A. What is the other corner which goes farther up?

Q. What is the name of that street?—A. I do not remember its name, but if I should hear its name mentioned, I should remember it.

Q. Was it Caya Jefferson?—A. Yes; Jefferson. That is correct.

Q. Were you at the corner of Fifteenth street when the firing commenced?—A. No; I crossed.

Q. But he says that he was standing at a point, when the firing commenced, on Fifteenth street. I want to know where it was.—A. It was on another street, lower down.

Q. Now, where? I want that point.—A. The street beyond Jefferson, at its intersection with the street beyond Jefferson.

Q. It was at the street beyond Jefferson?—A. Yes, sir.

Q. Then you were two squares beyond this street, beyond this point on Fifteenth street [indicating the corner of Fifteenth and Adams street]?—A. Fifteenth street runs thus, and all the streets run this way [indicating].

Q. I know. Can you tell me where you were, and locate it?—A. On the corner of Fifteenth street, at the house of Don Campanero.

Q. It is at the corner of the second street which comes into Fifteenth street, east of Adams?—A. It was one square below Jefferson street.

Q. Do you mean beyond Jefferson, going out from Adams? How far were you away from that negro saloon—the Allison saloon?—A. The corner, just across from where was the saloon of the negroes.

Q. You were right near that saloon, were you not?—A. Looking towards the corner of the negro saloon is where I was.

Q. And two other policemen were with you?—A. They reached there at this moment, before the shots were fired.

Q. Where did they come from? How did they happen to be there at that time?—A. The chief of police had given orders to the sergeant to go around and see where the men were placed.

Q. Who was the sergeant?—A. Cesario Leal.

Q. And he had just reached you, to find out where you were?—A. In my place; yes.

Q. Who was the other man with you?—A. Vidal Rivas.

Q. Did he come with the sergeant?—A. No, sir. Oh, every night he goes walking around, as is his custom.

Q. Then when the firing commenced what did you do?—A. They arrived and spoke to me, saying, "What is going on here?"

Q. And how long was it after they asked you that question that the firing commenced?—A. Not yet.

Q. How long afterwards?—A. A very little while.

Q. How many shots did you hear at first?—A. First one, and then two, and then I said, "They are shots from the barracks," and I began to run.

Q. Did you look down Fifteenth street?—A. Yes, sir; I ran all along Fifteenth street.

Q. Did you see any flashes of guns?—A. Not yet; no.

Q. What kind of shots were those, pistol shots or rifle shots?—A. No, sir; allow me to say, when I commenced to run I passed one square, a place which they called "The Globe," and I kept on running to the other corner, and the others followed behind.

Q. That brought you to Adams street?—A. No. What do you call that other street?

Q. Jefferson.—A. Jefferson; yes.

Q. Had you run two squares or one square?—A. I ran from the corner of Don Campanero to the corner of the Great Globe, and I passed the other corner, the other square.

Q. That is two squares?—A. And then I turned on a street, thus [indicating].

Q. And went out Adams street to Fourteenth?—A. Not yet. I just went a little piece and I was very tired, and I then heard a discharge, and then I heard many shots.

Q. Where were you when you heard that discharge and those shots?—A. Upon turning the two squares I have mentioned.

Q. Were you on Adams street when you got tired?—A. Not yet.

Q. Where were you when you heard these shots and got tired—on Jefferson street?—A. On Jefferson street, and I was taking the direction which would bring me out on Fourteenth street.

Q. But you had not yet reached Fourteenth street?—A. No, sir.

Q. Did you stop there and remain there?—A. I was running, and I scarcely stopped when I heard many shots. Then I said: "This is the negroes that have pronounced against the city and it is useless for us to remain."

Q. Where did you go then?—A. We went on, and Vidal said (he is a man of much experience): "I believe that it is a pronouncement of raid on the part of the negroes."

Q. I would like to have you answer my question as to where you and these other police officers went.—A. We went out Fourteenth street.

Q. And then where?—A. And we reached the corner of Adams street.

Q. Did you turn and come down Fourteenth street to the corner of Adams street?—A. Yes. We came out and went in that direction [indicating].

Q. Where did you go from the corner of Fourteenth and Adams streets?—A. We went all along Adams street in the direction of the city hall.

Q. Did you see anybody doing any firing at all that night?—A. No, sir.

Q. You saw no firing?—A. No, sir.

Q. Did you hear any alarm given by any of the other policemen?—A. Nothing; absolutely.

Q. Did you make any effort to see these men who were firing—to see what became of them?—A. I desired to go all along the street to see where the shots were, but the sergeant said: "No; let us go to the city hall."

Q. Will you tell us more specifically where those first shots seemed to be fired from—the location of them?—A. They came out as though they were at the border of the wall of the barracks.

Q. Down near the gate that opens out onto Fourteenth street?—A. No; being upon Fifteenth street, I heard the shots as though they were near the border of the Rio Grande River.

Q. But I am inquiring now about the first shots, those you heard while you were standing with your companions, two of them, near the Allison saloon. Where were those shots fired?—A. I heard them near the walls of the barracks—near the border of the river.

Q. Did you not state yesterday that these shots—the first ones you heard—seemed to have been fired in the direction of the door or gate of the barracks, near Elizabeth street?—A. Yes.

Q. That is correct?—A. Yes, sir.

Q. Now, I want to get into the record there the exact distance that

you were away from the gate at that time. How many squares were you away from the gate when those first shots were fired? That is, how far away is it, by squares, from the gate up to the Allison saloon? To Washington street is one square, from the gate up to Washington street is one square?—A. Yes.

Q. And to Adams street is two squares?—A. Yes.

Q. And then to Jefferson would be three squares?—A. Yes, sir.

Q. And then you were one square farther, or two squares farther?—A. Please count again.

Q. To Washington is one square, to Adams is two squares, and to Jefferson is three squares. Now, was it the next square where the saloon was?—A. Yes, sir.

Q. Four squares. And then you ran two squares to Adams street, or one square to Jefferson street?—A. I ran one square, two squares, and then I changed my direction.

Q. Then you went to Fourteenth street on Adams street?—A. Upon reaching Adams street.

Q. Yes. Was there any firing going on when you reached Adams street and turned to go to Fourteenth street?—A. At that moment I heard them within the city.

Q. Yes; within the city. All right. Do you know Kid Alonzo—a man they call "Kid Alonzo"?—A. No. I know all the Alonzo family. I know the father and three children that he has. These are the Alonzos that I know there.

Q. How many of the children are boys?—A. Two.

Q. How old are they?—A. The smaller one ought to be 18 or 19 years old, although I am not very positive. He is called Manuel.

Q. How old is the other one, the older of the two?—A. The older one, called Alphonso Alonzo, is about 25 years old, but I am not clothing and foodstuffs.

Q. What occupation do those young men follow?—A. They are employees of the father.

Q. What business is he in?—A. He has a store in which are sold clothing and foodstuffs.

Q. Do they work with him in the store?—A. The two small ones, yes; Antonio, and Manuel that they call Nellie. The small one they call Nellie.

Q. Did you see either one of these young men the evening of this firing or during that day?—A. I do not remember.

Q. Do you know Harry Belger?—A. Yes, sir.

Q. What does he do?—A. At that time he was with a sister.

Q. How do you mean, "with a sister?" Do you mean in her employment?—A. No; he lived with her; he was young.

Q. How old was he?—A. About 19 or 20 years; I am not certain.

Q. Did you see him that evening or that afternoon?—A. I do not remember.

Q. Do you know John Natus?—A. Very well.

Q. Did you see him that evening, before the firing?—A. Afterwards, on Commercial street, I saw Natus.

Q. Did you see him at all before the firing?—A. No, sir.

Senator FORAKER. That is all.

(Witness excused.)

TESTIMONY OF CHARLES STAFFORD CANADA.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. What is your age?—A. Thirty-two.

Q. What is your business?—A. Newspaper business.

Q. How long have you been engaged in the newspaper business?—
A. About three years.

Q. At what points?—A. At Laredo and at Brownsville; at San Antonio at present.

Q. At San Antonio at present?—A. Yes, sir.

Q. Have you lived in Brownsville?—A. I lived there about six months.

Q. When was that?—A. I went there about the latter part of last June, leaving there to go to San Antonio at the beginning of the court-martial of Major Penrose.

Q. You were publishing a newspaper in Brownsville on the 13th of August?—A. No; I was not publishing then. I was getting ready to publish later.

Q. Have you a family?—A. No.

Q. Where were you on the night of the 13th of August, last year, at the time of the shooting up of the town of Brownsville?—A. At the Miller Hotel.

Q. Mr. Canada, tell in your own way the first you heard of that shooting, during the shooting, and what you saw? You were asleep, were you, when it commenced, and were awakened by the shooting?—A. No; I was not asleep. I had scarcely lain down when the shooting began. From the direction I knew it was about the post boundary. The first shots were not so distinct to me, because being in my room with several buildings between, on the opposite side from the hotel, I could not exactly locate the direction. I dressed hurriedly and went down to the side door. My room was on the third floor. I went down to the street, but could see nothing from there, so I went to the second floor, out on the front gallery, and stood there for possibly some three or four minutes.

Q. By "front gallery" you mean the front porch?—A. Yes, sir.

By Senator FRAZIER:

Q. On Elizabeth street?—A. On Elizabeth street, the second floor.

By Senator WARNER:

Q. And when you were there what did you hear?—A. There were possibly 150 shots fired while I was on the front gallery, and the shooting—the noise—was coming from the alley back of the hotel. I heard then a horse coming up the street by the side of the hotel, and I started back, then, to get in the direction of the passage, if the shooting should come around on Elizabeth street, and I saw, I recognized from his uniform, that it was a policeman, a rather stout man. I could not see to recognize which one he was, but I knew that he was a policeman on a white horse. The horse staggered just about even with the hotel, and fell just across on the opposite side of the street, rather on the corner. I heard several shots, or, rather, I heard

the pieces of brick falling from the buildings as the shots were fired, and I could hear distinctly the working of the guns.

Q. What do you mean by the working of the guns?—A. As the shells were thrown out. It was a sound that I had never heard before. I had never heard the guns of that kind working, although I have used Winchesters and guns of other makes like that. But this had a different sound that night from any I have ever heard before.

(Senator Warner here worked the breech-bolt of a rifle back and forth.)

Q. Was it similar to that?—A. Something of the kind. It had a very sharp click.

Q. (Again illustrating with gun.) In making that sharp click I pulled back the bolt of this gun.—A. Yes, sir; it was something of that nature.

Q. Pulling out that bolt in this way [illustrating] throws out the cartridge, and then you put it back again in place?—A. Something of that sound was what I heard. It did not sound like the Winchesters that I had used.

Q. Go on, Mr. Canada.—A. As this policeman and his horse fell, I heard voices that I took them to be the voices of negro men.

Q. Did you have any doubt about it then?—A. I did not have the least.

Q. Have you had any doubt about it since?—A. Not the least doubt. I went back then two or three windows to a vacant room about the middle of the building and tried to see what was going on in the alley. It was too dark for me to distinguish. They all seemed to have on the same color of clothing. In that community at night or at all times through the summer the natives wear light clothing. Very few coats are worn, day or night, and by their all looking alike at that distance I had no doubt of its being the troops from the fort.

Q. That is, their uniform was the same?—A. It looked the same to me. It was light enough for me to have told a difference if there had been any marked difference—of white shirts or anything of that kind—and the faces that I saw moving there.

Q. You distinguished the color—a light yellow color?—A. Yes, sir; it looked to me to be the uniform of the men in the fort at that time.

Q. You were familiar with their uniform?—A. Yes, sir; I had seen them every day since they had been there.

Q. Where you saw those men in uniform was at the corner of what street and the alley?—A. At the corner of Thirteenth street and the alley—the alley crossing Thirteenth street between Elizabeth and Washington streets.

Q. That is the alley just back in the rear of the Miller Hotel?—A. Of the Miller Hotel.

Q. Yes. Then, after that what did you see?—A. I didn't see anything further that night. I heard shooting farther up the alley.

Q. When you say "farther up the alley," do you mean farther up towards Twelfth street?—A. It was away from the fort—as it went on up the alley into the town.

Q. Into the town?—A. Yes, sir.

Q. Thirteenth street is between Twelfth street and the fort, so that it would be towards Twelfth street where you heard the firing after that. How many of those parties were there that you saw that you could distinguish in the uniform after you heard the working of the guns?—A. I could not say positively. I would say five, six, or eight, perhaps.

Q. Now, what about the reports of those guns—that is, the reports that you heard—as to whether they were the reports of pistols or of heavy firing?—A. I can not say as to the first. I had the impression that the first shots were of pistols, but there being several buildings and closed doors between me and the firing, I could not say. But after that I am positive they were the reports of high-power rifles. The sharp, incisive report was not like the report of any large-caliber gun that I had ever heard before.

Q. When you heard voices, were you able to distinguish what was said?—A. Only something to the effect, when this policeman fell with his horse, "We have got him." I heard other voices, but not to distinguish anything of their import.

Q. And you say you had no doubt then, and have had none since then, that those voices were the voices of colored men?—A. None whatever, sir.

Q. Where were you raised, Mr. Kennedy?—A. In North Carolina.

Q. And how long have you lived in Texas?—A. I went to Texas in November, a year ago.

By Senator OVERMAN:

Q. Whereabouts in North Carolina; Greensboro?—A. Greensboro; near Greensboro.

Q. Were you educated at Guilford College?—A. No, sir; at the high school at Summerfield, and at the university.

Q. At the University of North Carolina?—A. Yes, sir.

The CHAIRMAN. Please speak a little louder.

The WITNESS. At the University of North Carolina; the class of 1899.

By Senator WARNER:

Q. Did you see the company of soldiers that came out after the shooting was over?—A. I did.

Q. Under an officer?—A. Yes, sir.

Q. About how many shots, altogether, do you think you heard that night? Would you be able to determine it?—A. I do not think there could have been less than 200.

Q. How was that shooting, as near as you can judge, now, that is, as to being what we would call volleys, eight or ten shots together, or how was it, just as you remember it?—A. Well, sometimes for a few moments you could count the shots, and then again there would be from five to ten or fifteen in rapid succession, or so near together that you could not form any idea how many there were.

Q. They would be together, like a volley?—A. Yes, sir.

Q. Did you go out of the house that night?—A. I went up Elizabeth street to Tillman's saloon.

Q. That was before or after the company of soldiers had come out?—A. After the soldiers had gone back.

Q. You did not venture out before that?—A. No.

Q. What did you find at the Tillman saloon?—A. I only went to the door. There were a crowd of men there.

Q. You had heard at that time that a man had been killed there?—A. Yes; I heard that before leaving the hotel.

Q. And that is the reason you went there?—A. Yes.

Q. Among the citizens, in speaking of the killing of that man and the shooting up of the town, was it the general expression of everybody that the negroes had done the shooting?—A. Undoubtedly. Everyone thought so.

Q. And it was so expressed at the time?—A. At the time and since.

Q. And since, you say?—A. Yes.

Q. And about how many minutes after the shooting closed was it, or how long, before you went to the Tillman saloon?—A. I do not remember how long it may have been. The crowd were dispersing when I went up there. Mayor Combe was talking with them and advising them to go home and be good.

Q. This shooting necessarily created a very considerable excitement in the town?—A. Yes; it did.

Q. Did you notice the next day at all the number of shots that had struck the Miller Hotel?—A. Yes; I noticed six or seven, and their location, and the direction from which they must have been fired.

Q. Where were those evidences of the bullets hitting the Miller Hotel; in what part?—A. There was one went through the window—the blind—fired almost directly up from the alley just beneath. This was on the second floor. It penetrated the ceiling overhead some 3 or 4 feet from the wall and went on through the second floor, on through the room on the third floor, and into the ceiling of the third-floor room.

Q. And where was it that entered, in the first or the second floor?—A. That entered a window of the second floor.

Q. It went through the flooring of the third floor and on up?—A. Through the ceiling of the third floor of the building.

Q. Did it go through the roof?—A. I do not know.

Q. You never examined to see?—A. No, sir. Another went in the casement of the window, and went through the 6 or 7 inches of casement, and went through a door, and on into the ceiling.

Q. Of the third floor?—A. Yes, sir.

Q. Do you know where that stopped, if it stopped at all?—A. No, sir; I never traced it out.

Q. And the next?—A. There were two shots went within about 6 inches of the casement, and one about 2 feet below the casement, of the window of the room that I occupied. I had left a light burning when I went down to the second floor. Then, farther on, there was still another, towards another window; between my window and perhaps the next, there was still another, on the other side.

Q. Are there any others that you remember, Mr. Canada?—A. Those are all I remember the location of.

Q. From the point of entrance and the point of exit of those bullets, as near as you could determine, from what place or direction were those shots fired?—A. The one that went through the blind of the window was fired, it looked like, 6 or 8 feet from the foot of the wall of the building.

By Senator FRAZIER :

Q. In the alley?—A. In the alley, that was. The other, the one that I could trace by direction through the casement, seemed to have been fired from the other side, from the sidewalk on the other side of the street, from the corner, right on the corner of the alley and the street. The streets were very narrow. The others, that hit the wall, it would be rather hard to tell about exactly, but they seemed to have been from about the same position.

Q. The first you saw of the lieutenant of police, he was down near the corner of Thirteenth and Elizabeth streets?—A. The first I saw of him was just even with the Miller Hotel. The Miller Hotel sits back some 20 feet from the sidewalk, and he was just even with that; as his horse came up even with that I saw him.

Q. Even with the front of the hotel?—A. Yes, sir.

Q. Then he went on towards Elizabeth street, and there the horse fell?—A. Yes.

By Senatos TALIAFERRO :

Q. He was about 20 feet from Elizabeth street when you saw him first?—A. Yes, sir.

By Senator FOSTER :

Q. Is there not a light at the corner of Elizabeth street?—A. Yes, sir; an oil lamp.

Senator WARNER. I do not care to ask any further questions.

By Senator FORAKER :

Q. When did you leave North Carolina?—A. I left there about six years ago.

Q. About six years ago?—A. Yes, sir.

Q. You lived there all your life until about six years ago?—A. Yes, sir.

Q. At what place in North Carolina?—A. My home was about 12 miles from Greensboro, in Guilford County.

Q. What business were you engaged in there?—A. I was on the farm there.

Q. You lived on the farm?—A. Yes, sir.

Q. When did you engage in newspaper work?—A. I first began in Omaha, Nebr., doing some work there.

Q. Where did you go first, when you left North Carolina?—A. I went to the Indian Territory.

Q. Where were you located in the Indian Territory?—A. I was in a number of places a short time. A new railroad was being built, and I was in the timber.

Q. In what?—A. In the timber, getting cross-ties.

Q. You were engaged in getting out cross-ties for a railroad?—A. Yes; at a number of places.

Q. How long did you remain in the Indian Territory?—A. I was there six or eight months.

Q. Then where did you go?—A. I went to Omaha.

Q. And how long did you remain in Omaha?—A. I was six or eight months there.

Q. How were you occupied while there?—A. I was solicitor for an investment company part of the time, and then I began doing some newspaper work.

Q. What newspaper were you on?—A. It was a small monthly magazine; real-estate work.

Q. Who edited it?—A. A Miss Cleary.

Q. Miss Cleary?—A. Yes, sir.

Q. How long did you continue to do work for that publication?—

A. I was connected with that about three months, I think.

Q. Then where did you go?—A. I went down to Arkansas.

Q. Tell us just when that was that you arrived in Arkansas.—A. It was in the spring, about four years ago.

Q. About four years ago would be in 1903?—A. Yes, sir.

Q. Where did you locate in Arkansas?—A. I went first to Black Rock.

Q. To Black Rock? Well, how long did you stay at Black Rock?—

A. I was within 10 or 12 miles of there for nearly a year.

Q. Nearly a year? How were you occupied while there?—A. I was in the timber part of the time and teaching school a part of the time.

Q. What were you doing in the timber?—A. Getting cross-ties.

Q. Getting out cross-ties?—A. Yes, sir.

Q. You were there nearly a year?—A. Yes, sir.

Q. Where did you go when you left there?—A. I went down near Augusta, on the White River.

Q. Augusta; in what State?—A. In Arkansas.

Q. Did you locate there for a while?—A. I was there for a few months.

Q. How long?—A. I was there three or four months, and then I went out into—

Q. How were you occupied while you were there?—A. I was doing work as a local minister there.

Q. As a local minister?—A. Yes, sir.

Q. Of what denomination?—A. Of the Methodist Episcopal Church South.

Q. Had you been a member of that church for a long time?—A. Yes, sir; for about fifteen years.

Q. You did work there as a local minister in the Methodist Episcopal Church South for how long a time?—A. I was there three or four months.

Q. Had you done that work at any other place or any other time before that?—A. I did to some extent while I was in the Black Rock region.

Q. Were you ordained to preach?—A. No.

Q. You just preached to fill a want?—A. Just to fill a vacancy in that missionary region.

Q. Did you have charge of a congregation?—A. I did part of the time.

Q. How long were you there altogether?—A. I was at Augusta, and near there, about three or four months.

Q. That brought you down to what date?—A. I do not remember the year. It was in the summer time when I left there and went out to west Arkansas.

Q. You left there and went to west Arkansas?—A. Yes, sir.

Q. Where did you locate in west Arkansas?—A. At Booneville.

Q. At Booneville, in west Arkansas?—A. Yes, sir.

Q. What did you do there?—A. I had charge of a mission circuit there.

Q. Of the Methodist Episcopal Church South?—A. Yes, sir.

Q. How long were you there at that point?—A. I had charge of it about four months.

Q. Four months. Until what date?—A. Until—I think the conference convenes there about November. Until about November of that year.

Q. Of what year?—A. I do not remember the year.

Q. That is not very long ago; you ought to be able to remember that. Was that 1903 or 1904?—A. I don't remember.

Q. Sir?—A. I do not remember.

Q. Do you mean you can not tell us when you were there? You were there four months.—A. But I do not—

Q. You mean that you can give us the date when you got there or when you left there, either one?—A. No. As to the year, I do not think I can.

Q. You can not tell what year it was. Where did you go from there?—A. I stayed there; after giving up charge of that work—

Q. Right there. How did you happen to give up that charge, if I may ask you?

Senator WARNER. Please wait until he answers your question.

Senator FORAKER. Very well, let him answer that question.

By Senator FORAKER:

Q. Answer my other question. I can ask you this again.—A. I began farming, then.

Q. You began farming?—A. Yes, sir.

Q. Where?—A. About 5 miles from Booneville.

Q. That was after you began the work of superintending the home mission, was it—was it the home mission?—A. Well, I was in charge of the board of home missions.

Q. Yes. After you gave that up you went to farming?—A. Yes, sir.

Q. How did you happen to give up this superintendency of the board of home missions?—A. I did not say the superintendency of the board.

Q. I beg your pardon, I thought you did. What was the statement that you made?—A. To the effect that I had charge of a mission circuit.

Q. You had charge of a mission field circuit?—A. Of a mission circuit, as they call it there.

Q. A mission circuit?—A. Yes, sir.

Q. What were your duties as officer in charge of that mission circuit?—A. Just filling a regular pastorate; doing the pastorate work; preaching at four or five different country churches.

Q. At the end of that period of four months you quit and went to farming 4 or 5 miles out in the country?—A. Yes, sir.

Q. Yes. How much of a farm did you have?—A. I rented about 30 acres, altogether.

Q. You rented 30 acres?—A. Yes.

Q. From whom did you rent your farm?—A. Two or three different landowners; some from one and some from another.

Q. That is, to get 30 acres you had to rent from different persons?—A. To get the kind of land I wanted, I did.

Q. Was that land all in one body?—A. No, sir.

Q. At different points. How much in each parcel?—A. About 20 acres in one body and different sizes in others. Three or 4 acres in one place and 2 or 3 in another.

Q. Did you have more than three parcels of land?—A. No; I just had three.

Q. How near together were these parcels of land?—A. Within a mile or so.

Q. A mile or so. And you farmed first on one and then on another, did you?—A. Yes, sir.

Q. And how long were you at that?—A. I was there about a year.

Q. A year, doing that work of farming?—A. Yes, sir.

Q. What kind of crops did you raise?—A. Crab grass, mostly. It rained nearly all the time.

Q. It rained nearly all the time?—A. Yes, sir.

Q. What was the crop you raised?—A. Crab grass and cockleburrs.

By Senator FRAZIER:

Q. What were you proposing to raise?—A. Cotton.

By Senator FORAKER:

Q. Then your farming experiment was not a success?—A. It was a failure.

Q. It was a failure. And you left there and went where?—A. I left there and went to Laredo, Tex.

Q. And when was it that you went to Laredo, Tex.?—A. It was about the middle of November, year before last.

Q. Year before last?—A. Yes, sir.

Q. That would be about what date?—A. It would be 1905.

Q. 1905?—A. Yes, sir.

Q. In what business did you engage there?—A. Newspaper work.

Q. In connection with what paper?—A. My brother and I had a weekly paper at Laredo.

Q. What is his name?—A. J. W. Kennedy.

Q. How long had he been at Laredo before you went there?—A. He had been there about six months.

Q. About six months. Had he already started the paper?—A. Yes, sir.

Q. And you joined him and went to work on the paper?—A. Yes, sir.

Q. Was that your first newspaper work after you left Omaha?—A. Yes, sir.

Q. That was your first. How long did you remain in Laredo?—A. I left there the following June.

Q. What kind of work did you do on that newspaper?—A. I did the general work of a country weekly.

Q. What do you mean by "general work?" Did you write for it, or solicit subscriptions, or what?—A. I did all of it.

Q. You did all that kind of work?—A. Yes, sir.

Q. Did you solicit subscriptions?—A. Yes, sir; to some extent.

Q. What is the name of that paper?—A. The Borderland, we called it.

Q. Then where did you go when you left there?—A. I went to Brownsville.

Q. What time was that?—A. That was in June.

Q. Of what year?—A. Last year.

Q. 1906?—A. Yes, sir.

Q. Now, I understood you to say a while ago, when Senator Warner asked you the question, that you had been engaged in newspaper work about three years. Was that a correct answer, or do you wish to modify it?—A. Well, I will modify it this way: This year is one year, last year is two years, and year before last is three years.

Q. That is the way you mean now to be understood, is it?—A. Yes, sir.

Senator OVERMAN. It is about three years.

By Senator FORAKER:

Q. What newspaper were you connected with in Brownsville?—A. The Riverside.

Q. The Riverside. What other newspapers are there in Brownsville?—A. The Daily Herald, and one or two Mexican papers.

Q. Who is the editor of The Riverside—who was the editor at that time?—A. My brother and I; both of us did work on it.

Q. When was The Riverside started?—A. It was started about two years ago.

Q. What had become of The Borderland?—A. We kept on publishing it.

Q. After you started The Riverside?—A. Yes, sir.

Q. Did your brother remain at Laredo and continue to publish The Borderland?—A. He was in San Antonio.

Q. When did he go to San Antonio?—A. He went to San Antonio when I went to Laredo.

Q. When you went to Laredo he went to San Antonio. What did he do at San Antonio?—A. He began the publication, or rather the printing for other papers—

Q. What is that? I could not hear that answer.—A. He began printing the inside sheets for other weekly papers.

Q. For other weekly papers?—A. Yes, sir.

Q. And did you go to San Antonio and assist him in this work?—A. Not until this spring.

Q. You went there this spring?—A. Yes, sir.

Q. When did you go there this spring; at what date?—A. I think it was the 4th of February.

Q. The 4th of February?—A. At the beginning of the Major Penrose court-martial.

Q. At the beginning of that court-martial. Did you testify before that court-martial?—A. No, sir.

Q. No. Have you been at San Antonio ever since?—A. Yes, sir.

Q. You quit Brownsville the 4th of February last, did you?—A. Yes, sir.

Q. So that you were in Brownsville from June, 1906, until the 4th of February, 1907?—A. Yes.

Q. That is all you were there?—A. Yes, sir.

Q. Is The Borderland paper still being published?—A. No.

Q. Is The Riverside still being published?—A. No.

Q. When did that suspend?—A. When I left there to go to San Antonio.

Q. How did you come to suspend that publication?—A. It was not a success financially.

Q. Was The Borderland a success, financially?—A. Yes; it was, though not large.

Q. And that is still going, did I understand you to say?—A. No.

Q. That is suspended also?—A. Yes, sir.

Q. You have testified before in this case, have you not?—A. I was before Mr. Purdy.

Q. Were you before anybody else?—A. The citizens' committee.

Q. Who composed that citizens' committee?—A. I do not remember the names of all of them. Some dozen of the best people we had at Brownsville were on the committee.

Q. What date in June was it that you went to Brownsville from Laredo?—A. I do not remember.

Q. Well, can you not give us some idea?—A. The latter part of June.

Q. In the latter part of June. You had not been in Brownsville, then, more than five or six weeks, had you, when this shooting affray occurred?—A. No, sir.

Q. Had you ever been in Brownsville before that time?—A. I had spent about three days there a month or six weeks before that.

Q. You had never lived there?—A. No, sir.

Q. Your acquaintance with the people of Brownsville, then, was limited to that five or six weeks that you had been there, I suppose?—A. Yes, sir.

Q. But you had become acquainted with the leading and best people of the town?—A. Yes; I knew a great many people.

Q. Yes; so as to be able to tell us the character of the citizens' committee. Now, can you give us the names of any of them?—A. Mr. William Kelly was one.

Q. He was the president of the First National Bank, was he not?—A. Yes, sir.

Q. Can you give us the names of any others?—A. Mr. John Hoyt, I think, was one.

Q. When was this citizens' committee organized?—A. The next morning—the morning of the 14th of August.

Q. Was Mr. John Bartlett, county judge, one of them?—A. I think he was. I am not positive.

Q. Frank W. Kibbe, the attorney, was he one of them?—A. I am not positive. Most likely he was.

Q. Can you tell us how many there were of them?—A. I think there were about ten or twelve.

Q. They were all respectable, honorable men, were they?—A. So far as I know they were as good as any others in Brownsville.

Q. Where did they hold their meetings to conduct this investigation?—A. Most of the time they met in J. B. Wells's law office.

Q. In the law office of J. B. Wells. Who is he?—A. One of the leading lawyers and political men of southern Texas.

Q. He has a law office in the building that is diagonally across from the Miller Hotel, has he not?—A. Yes.

Q. And did you go there to his law office when you testified before the committee?—A. Yes.

Q. They were men of such high character that they would not misrepresent what a man said, you think?—A. Not intentionally.

Q. No. I have before me Senate Document 155, and I want to read to you what is given in that document, on page 82, as your testimony. I would like to know, first, who put these questions to you.—

A. I do not remember now.

Q. You do not remember who asked the questions?—A. No. They may have been asked by different members, for all I remember.

Q. Tell me who put this question to you:

Q. We are inquiring into the matter of last night with a view to ascertaining who the guilty parties are. We know they were negro soldiers. If there is anything that would throw any light on the subject we would like to have it.

Now, can you recall who propounded that interrogatory to you?—

A. No; I do not.

Q. Do you remember what your answer was?—A. No; I do not remember that, either.

Q. In view of your testimony here, I invite your attention to it as I read it:

A. I did not see a single man that I am sure.

Is that correct? [After a pause.] Please answer the question.

Senator WARNER. Would it not be well to read it all to him?

Senator FORAKER. I will read it all to him.

The CHAIRMAN. I will place another copy of this volume before him, as it ought to be, and then he can see just what it is.

By Senator FORAKER:

Q. I will read it, and then you can look at it in that copy:

A. I did not see a single man that I am sure.

Have you got that?—A. Yes, sir.

Q. Now follow me as I read:

My room is up on third floor. As soon as the shooting began I went down on second floor and went out on the gallery. I saw that policeman and saw that the horse was wounded. He staggered and fell. I could tell by his rather dark clothes that he was an officer.

Is that the answer you gave, then?—A. To that effect; yes.

Q. Then just keep that book before you. The next is:

Q. Could you see who fired the shots?

Do you remember who put that question to you?—A. No; I do not remember.

Q. Now, note your answer as I read it:

A. No; I could not give any description of the men. I could hear the peculiar click of the gun, and I would swear it was a rifle.

Is that correct, that answer?—A. Yes; that is correct. I did not see them at all during the firing.

Q. Yes. Now the next question:

Q. Could you tell whether it was an ordinary rifle or a Krag?—A. They were the same as the shots fired in the alley.

That is correct, is it?—A. Yes, sir.

Q. And the next is:

Q. You could not hear them say anything?—A. Perhaps, if I had been listening for that purpose alone.

Is that correct? I just want to get it in the record whether that is correct or not. Did you make that answer?—A. I do not remember. I suppose I did.

Q. The next is:

Q. How many shots were fired from the corner at the horse?—A. At least three.

Is that correct?—A. Yes; that is correct. There were at least that many bullet holes found the next day.

Q. I only want to know what you answered there—whether you are correctly reported. The next is:

Q. How many in all did you hear?—A. Not less than 150; perhaps 200; between those two numbers. It is more or less a guess.

Is that correct?—A. Yes.

Q. The next is:

Q. Did you hear any commands? Hear "Fire," or anything that way?—A. The only thing I heard them say was, "We got him," when the horse fell.

Is that correct?—A. That is correct.

Q. Did you see or hear anything that would lead you to believe that they were negro soldiers?—A. Nothing except the general tenor of the affair.

Is that correct? Did you make that answer?—A. I suppose I did.

Q. The next is:

Q. The next firing was up the street?—A. Yes; they went on up the street firing.

That is correct, is it?—A. It is.

Q. And the next is:

Q. From the tone of the voice that you heard make the remark, "We got him," were they Americans or Mexicans?—A. I think they were negroes. I was raised among them and know their voices pretty well.

Is that correct?—A. I think so.

Q. Is that correct?—A. I think it is.

Q. You next testified before Mr. Purdy. You told there which room you were occupying that night. Will you please tell me now which room it was you occupied.—A. On the third floor, second from the rear.

Q. From the alley?—A. Yes, sir.

Q. That is to say, there was only one room between your room and the alley?—A. Yes, sir. There was a small, narrow hallway, with one window at the end of the hallway.

Q. Leading where?—A. Overlooking Thirteenth street.

Q. Between your room and the corner room?—A. Yes, sir.

Q. A little hallway?—A. Yes, sir.

Q. So that your room was not immediately adjoining the next room towards Elizabeth street. How wide was that hallway?—A. My room adjoined the one towards Elizabeth street.

Q. Where was this hallway, between your room and the corner room on the alley?—A. Yes, sir.

Q. Your room immediately adjoined, then, one on Elizabeth street, outside, there?—A. Yes, sir.

Q. Do you know who occupied that room that night?—A. Mr. Chace, I think.

Q. Mr. Chace occupied that, or was it Mr. Bodin?—A. I do not remember, but I think it was Mr. Chace's room.

Q. You think Mr. Chace occupied that room. Did you see Mr. Chace that night?—A. I do not recollect seeing him. I heard his voice after I went back to my room, I think, but I do not recollect seeing him that night.

Q. You were not asleep when this firing commenced?—A. No.

Q. You got up and went somewhere; where was it?—A. I went down to the side door leading to the stairway going to the second floor, the stairway leading to the second floor. I went to the door and closed it. I looked out first and then closed it.

Q. That is, you went out on the second floor of the hotel?—A. Yes; and then to this side door on the street.

Q. And then to the first floor?—A. Yes, sir.

Q. When you got to the first floor where did you go?—A. I looked out first.

Q. Which door was it that you looked out of?—A. The door looking out onto the street.

Q. Onto Thirteenth street?—A. Yes, sir.

Q. What was happening at that time?—A. There was shooting on the other side of the building.

Q. That is, on the other side [indicating]?—A. It had not reached that far. It was directly back, down the side of the building.

Q. Yes. The firing was still down the alley toward the garrison?—A. Yes, sir.

Q. And had not come up to Thirteenth street?—A. No, sir.

Q. You looked out that door for a moment?—A. Yes, sir.

Q. What did you see?—A. I saw a light in the building rather diagonally across the street, and I heard the voices of the women and children that were very much frightened.

Q. Those were in the hotel, I suppose?—A. No; they were in a house that was almost diagonally across the alley.

Q. These voices of women and children came from where that light was?—A. Yes.

Q. That was diagonally across. You mean that was northeast, on the northeast corner, diagonally across from the Miller Hotel?—A. Yes; it was a building across the alley.

Q. What is the name of the building in which this light was?—A. I do not remember. I think Broughton was the name of the family that lived there.

Q. Was it a residence?—A. A residence on the first floor; a tin shop on the first floor.

Q. A tin shop on the first floor?—A. Yes, sir.

Q. And a residence over it?—A. Yes.

Q. How many rooms did it have?—A. Two; that part of it.

Q. Were there any galleries or verandas around that building, either on the first floor or over?—A. No, sir; it is built right alongside of the street.

Q. And it is built right square out onto Thirteenth street, and also on the alley, is it?—A. There is a one-story building between that and the alley.

Q. That light was burning. Did it continue burning as long as you looked at it, or was it put out?—A. I did not see it put out. I was there only a moment.

Q. You were there a moment, and that was all you observed?—A. Yes, sir.

Q. Then where did you go?—A. I went back to the second floor and went out on the front—on the balcony.

Q. That is out on the Elizabeth side?—A. Yes, sir.

Q. You went and looked out on Thirteenth street, and then you went up and went out on the balcony in front?—A. Yes, sir.

Q. And then what did you observe?—A. I went over to the east corner, where I could see the firing from the diagonal corner of the block.

Q. That is, when you say "the east corner," you mean the corner of Thirteenth street and Elizabeth street, do you?—A. Well, no; that would be the west corner. The east corner is towards the garrison.

Q. You went to the corner next to the garrison?—A. Yes, sir.

Q. What did you observe when you got to that corner?—A. I could see nothing from there in the street, down towards where the firing was, on account of the buildings.

Q. Where did the firing seem to be at that time?—A. It seemed to be rather down about Elizabeth street, and also on the alley.

Q. On Elizabeth street?—A. It may have been between Elizabeth street and Thirteenth.

Q. This dark spot here on the map, to which I point, is supposed to represent the Miller Hotel, and you were at the corner to which I point my pencil?—A. Yes, sir; that corner.

Q. You tried to look down Elizabeth street, and you could not on account of the houses adjoining you?—A. There is a vacant lot next to the hotel there, but the second or third lot has a house on it.

Q. That is Doctor Thorn's lot, is it not?—A. Doctor Thorn's is back this way [indicating].

Q. Back here [indicating]?—A. Yes, sir.

Q. Doctor Thorn's house comes out square to the street?—A. Out to the street; a two-story brick.

Q. And it was his house that obstructed your view down Elizabeth street?—A. Yes, sir.

Q. Then you did not see any firing in that direction?—A. No; I could not see any.

Q. Where did the firing seem to be at that time?—A. It seemed to be back of Doctor Thorn's house, and also back down the alley, at that time.

Q. Did there seem to be any firing at that time on Elizabeth street?—A. No, sir; I think there was none at that time on Elizabeth street. It sounded as though, perhaps, between Elizabeth and Washington streets.

Q. What did you see while you stood there, and how long did you stand there?—A. I stood there possibly two or three minutes.

Q. Then where did you go?—A. I went back to the western side.

Q. That is, to the other corner of the building?—A. Yes, sir.

Q. Still out in front, on the gallery, however?—A. Yes, sir.

Q. Up on the second floor?—A. Yes, sir.

Q. You went over there. What caused you to go over there?—

A. The firing sounded to be coming on up the alley, and I heard the horse running.

Q. You heard a horse running, did you?—A. Yes, sir.

Q. Did you see the horse?—A. I saw him just as he came out even with the end of the building.

Q. As he came out. He was running?—A. Yes, sir.

Q. He had a man on him?—A. Yes, sir.

Q. That turned out to be the policeman on his horse, did it?—A. Yes, sir.

Q. Right at the corner, as we are told, the horse was struck with a bullet and killed and fell. Can you tell us just where that horse did fall?—A. He fell just about where that black cross mark is on that map. No; that is not right. He fell—

Q. I will point it out to you. This is the lamp-post at the corner of Elizabeth and Thirteenth streets and that is the Miller Hotel [indicating]. I understood you to say that you were at the corner of the veranda next to Thirteenth street, fronting on Elizabeth street. Is that correct?—A. Yes, sir.

Q. So that you were then where my cane now points [indicating]?—A. Yes, sir; within 2 or 3 feet of the corner.

Q. Within 2 or 3 feet of the corner; and the horse you saw as soon as it came out far enough on Thirteenth street towards Elizabeth street for you to see it?—A. Yes, sir.

Q. And it was running; and where did it fall—about there [indicating]?—A. It began staggering—it looked to me like it began staggering—about half-way between—well, almost even with the building.

Q. Then about the time you saw the horse it was already staggering?—A. Well, it seemed to stagger first right along there [indicating]. It had just gotten out. It did not seem to stagger as it came in view, but in three or four steps more it did.

Q. How far is it from the front of the Miller Hotel to the Elizabeth street line?—A. I suppose it is possibly 25 feet.

Q. Twenty-five feet. Now, the horse, as I understand it, was over on the opposite side of Thirteenth street from you?—A. Almost the middle.

Q. About where did it fall—in the middle of the street or over towards the corner?—A. It fell between the foot of that "T" and the star on the map.

Q. Right in here, in Elizabeth street?

Senator FRAZIER. He says the foot of the "T."

The WITNESS. The foot of the "T."

By Senator FORAKER:

Q. So that it fell on the opposite side of Elizabeth street from you?—A. Yes; I think it fell in the gutter, with its head on the sidewalk.

Q. When the lieutenant who was riding the horse was on the stand he indicated, by that cross I point to, the spot as being there where that cross is. Does that make any difference in your recollection and knowledge of that fact?—A. No.

Q. Your recollection is positive, is it, that it was on the opposite side of Elizabeth street?—A. Yes; the horse lay there until the next morning.

Q. And on Elizabeth street, north of Thirteenth?—A. Yes; it was above the lamp-post. The lamp-post was on the corner, and it was above the lamp-post.

Q. That lamp is in its correct place?—A. Yes, sir.

Q. Is that lamp at the point indicated by the star, according to your recollection?—A. I think it is.

Q. That is on the opposite side of Elizabeth street from the hotel?—A. Yes, sir.

Q. And on the opposite side of Thirteenth street from the hotel?—A. Yes, sir.

Q. At the corner. I suppose it is about on the corner of the sidewalk, is it not? Lamp-posts usually are.—A. I think the post is standing right at the edge of the gutter, where the two sidewalks join at right angles, if I remember it rightly.

Q. You say in this testimony that it was too dark for you to describe the uniform. This reminds me to ask you what kind of a night was that?—A. I think, as I remember, just an ordinary starlight night; not cloudy or foggy, but just ordinary.

Q. No moon?—A. No, sir.

Q. Was it an unusually dark night; I mean darker than usual?—A. No; I do not recall it being more than an ordinary night.

Q. You make this statement in this testimony in that connection:

I ran to the edge and saw the horse—a white horse—and the uniform of the police, but it was too dark for me to tell who it was, but I could see he was in a police uniform.

That is correct?—A. That is correct. That was getting near the light, and facing the light I could see that.

Q. You had been there only five or six weeks when this shooting affray occurred, as I understand you?—A. Something like that.

Q. You went there the latter part of June?—A. Yes, sir.

Q. And did you live in this Miller Hotel all the time?—A. Yes, sir.

Q. Occupying this same room all the time?—A. The same room.

Q. How were you occupied during that five or six weeks?—A. I was not doing anything—no kind of work.

Q. You had no kind of work?—A. Not at that time; no.

Q. Were you not on the newspaper at that time?—A. We were just getting ready to put in a small plant for printing our own paper, and it had not arrived, so that I was just awaiting its arrival, and spending the time on the streets getting acquainted with people.

Q. You were going about getting acquainted with people?—A. Yes, sir.

Q. Do you know whether or not at that time it had been announced in the papers—I mean at the time you went there—that the negro soldiers would be sent there?—A. I do not recall, exactly.

Q. Did you hear any talk, before the night of this shooting, about the negro soldiers coming there?—A. Yes; I had heard it and conversed with a number of people about that.

Q. Can you tell us with whom you did talk about it; can you give us the names of any of these people?—A. I remember one man very distinctly.

Q. Who was that?—A. Mr. Tucker.

Q. What is his first name?—A. I do not recall his first name.

Q. What business is he engaged in?—A. Managing an ice plant.

Q. Managing an ice plant?—A. Yes, sir.

Q. What did Mr. Tucker say on the subject?—A. He and I agreed that we did not think it a bad thing to have the negro soldiers in Brownsville.

Q. That is, you thought it was all right to have the come?

Senator WARNER. He said he did not think it was a bad thing, to use his own language.

By Senator FORAKER:

Q. Yes; exactly. You say that you and Mr. Tucker did not think it a bad thing to have the negro soldiers come to Brownsville?—

A. Yes, sir.

Q. Did you hear anybody else talk about it?—A. I heard a number of others, but I do not recall the individuals, saying that when former negro troops were there they were very peaceful.

Q. Very what?—A. Very peaceful and quiet citizens, and caused no more disturbance than the white troops had caused.

Q. Did you hear any objection at all to the negroes coming?—A. I do not think I did.

Q. Nothing whatever? Well, did you hear anything spoken in a spirit of hostility to the negroes up to the time of the shooting?—A. Yes.

Q. What did you hear?—A. I do not recall any exact expressions, but there was a feeling, among all the people there, that was becoming hostile to the negro troops.

Q. When did that feeling first manifest itself so that you observed it, before or after they arrived?—A. It must have been a week or two weeks after their arrival.

Q. What caused it, if you can tell me, and what was the nature of this hostile feeling?—A. Well, it was possibly the general behavior of the troops.

Q. Well, tell us what that was.

Senator WARNER. That is, what he knows about it, and what these people said, of course.

Senator FORAKER. What he knows. I only want what he knows of his own knowledge.

By Senator FORAKER:

Q. I will ask you what others said if I want that. What was their misbehavior, or their behavior? What kind of behavior do you refer to? What were they doing?—A. On a number of occasions they would conduct themselves in a superior sort of manner that grated on the nerves of the white women and men of Brownsville. Without any overt act, still it was a manner that grates on the nerves of white men.

Q. Give me some of those instances, and tell me just what they did on those occasions.—A. Of my own knowledge I know very little of their behavior, except hearing, occasionally—

Q. Did you see any of them loafing around the town in a drunken condition?—A. Yes; I saw a number of them that had to have their friends take care of them, to enable them to walk on those streets.

Q. How many of them did you see in a drunken condition that had to be cared for by friends?—A. I do not recall more than two or three occasions.

Q. Two or three. Can you tell us when those occasions were?—A. No; I can not.

Q. And do you know of any of those soldiers being arrested while they were there?—A. No; I do not recall whether or not they were.

Q. Do you know Victoriano Fernandez, the policeman?—A. I do.

Q. He had a beat on Elizabeth street?—A. Yes, sir.

Q. That is the most frequented street in the city, is it not, by soldiers and everybody else?—A. Yes, sir.

Q. Did you ever hear him making any complaint of their conduct?—A. No, sir; I do not recall any.

Q. Did you ever hear of him making any arrests?—A. No, sir.

Q. Or finding any of them drunk on the street?—A. No; I do not recall any.

Q. Did you ever visit the post while they were there?—A. I was inside the post a number of times.

Q. Did you see anything disorderly when you were at the post?—A. No; nothing at the post disorderly.

Q. Did you see anything at the post indicating a lack of discipline?—A. No.

Q. Or any bad conduct of any nature. And yet you say there was a feeling of hostility among the citizens growing up, after they came there, and preceding the firing?—A. Yes, sir; there was.

Q. How generally did you hear that talked about?—A. At first it was very slight. It was more of a growth that developed later into acts of the troops on one or two occasions, when some of the white men seemed to feel that they needed to expostulate, one way or another.

Q. You heard of Mr. Tate striking one of them with a revolver, did you not?—A. Yes, sir.

Q. That was, I suppose, much talked about among the citizens, was it not?—A. Yes, sir; it was talked of generally.

Q. What comment did you hear among the citizens on that account?—A. I do not think I heard any unfavorable comment on Mr. Tate's conduct, before or since.

Q. You did not hear any unfavorable comment on Mr. Tate's conduct, but did you hear any on the soldiers' conduct?—A. I did.

Q. How generally did you hear that comment made?—A. I think from about everyone who undertook to express himself on it in my presence.

Q. What did they say?—A. Possibly every man said that he would have done the same thing, in Mr. Tate's position.

Q. Did they say anything beyond that as to what ought to be done to the soldiers?—A. I do not recall any, at that time.

Q. At a later time did you hear anything?—A. I do not recall, in the sequence of events, just when, but the idea was among the people that the soldiers should be kept in the fort closer. That developed later, I know, very strongly.

Q. A feeling developed among the people that the soldiers should be kept in the fort closer?—A. Yes, sir.

Q. What did you hear said as to what they would do if they were not kept in the fort closer?—A. Well, they were making it very unpleasant for the white ladies of Brownsville to be on the street at any time.

Q. That impression was pretty general, was it?—A. Yes, sir; it was.

Q. That they were making it very unpleasant for the white ladies?—A. Yes.

Q. That was the general impression?—A. Yes; it was.

Q. Did that fire the hearts of the citizens?—A. Not a great deal; still it was the comment that the troops were making themselves too conspicuous on the streets, and monopolizing the sidewalks, which were very wide.

Q. Did you hear anybody say anything about what ought to be done with them for doing that?—A. I do not recall anything further; that they should be kept in closer, be kept in the fort more.

Q. Did you hear anybody say what he would do if he came into contact with them?—A. I do not recall anyone's expressing himself.

Q. This feeling was a very intense feeling, was it not, on the part of the citizens before this firing; it had become to be a very intense feeling?—A. Yes; it had.

Q. Is this statement correct, given in your testimony before Mr. Purdy? I will read from page 88:

I dressed as hurriedly as possible, because I knew there was an intense feeling among the people and the soldiers that night, and I was at once sure it was the soldiers.

That is correct?—A. That is correct; yes.

Q. So that you became sure it was the soldiers before you saw anybody?—A. Yes. I felt that it was a conflict, at first, between the police and the soldiers. The first firing I heard was pistol firing, and then I heard what I was sure was high-power rifle firing; and when I saw the policeman I still thought it was just a brush between the police and the soldiers.

Q. How much of that pistol firing do you think you heard?—A. While I am not positive it was pistol firing, it sounded so from my room—only a few shots.

Q. So there was a difference in the sound of the shots you heard that night?—A. Those that I heard while I was in my room did not sound as clear as the others. It may have been owing to the position I was in.

Senator WARNER. He has stated there were how many of those?

Senator FORAKER. Only a few of those, he said.

The WITNESS. Yes.

Senator WARNER. Only a few of those shots that you think were pistol shots?

The WITNESS. Yes, sir.

By Senator FRAZIER:

Q. Excuse me, I did not quite catch what you said. Did you say that you were not sure they were pistol shots, but that might have been by reason of your being in your room when that shooting was done?—A. Yes, sir; there were only a few shots, and I was in my room, so that I am not positive about their being pistol shots.

By Senator BULKELEY:

Q. Was your window open?—A. Yes, sir; it was open, but it was looking over in the opposite direction. There were halls and passages between my room and the first shots.

Q. Your room was towards the garrison?—A. No, sir; it was from the garrison.

Q. On Thirteenth street?—A. Yes, sir.

By Senator FORAKER:

Q. Now we will go back to the order of events with you that night. You were standing on the corner of the veranda next to Thirteenth street when the lieutenant's horse was shot. How long did you remain there after his horse fell?—A. A very short while. Long enough for me to see him disappear around the corner.

Q. He disentangled himself and got up, did he not, and went away?—A. Yes, sir. That was the way I saw it. For a few seconds he was, seemingly either badly hurt or tangled under his horse. I could not tell, until I saw him rise and go on up the street, around the corner, away from the line of fire.

Q. Except the killing of his horse, and the wounding of the lieutenant, and the firing, nothing was occurring on that side of the hotel, was there, at that time?—A. No, sir; I think not.

Q. And after you had seen him disappear, then where did you go?—A. I went back into the hall and into a vacant room on the second floor that overlooked Thirteenth street.

Q. And you looked out of that window?—A. Yes, sir.

Q. Onto Thirteenth street?—A. Yes, sir.

Q. What was happening out there then?—A. There was no firing out there then, and all I could see or be at all sure of—the general appearance, the lightness of the figures I saw moving down there, in that rather dim light with buildings on four sides, and only starlight—it was very indistinct. I could only see the figures.

Q. You could not see their faces?—A. I could not tell anything positively about the complexions, or anything about the color, except that it all looked like a uniform color.

Q. That is, there was a sort of a general uniform appearance in this way—you saw men moving about in the darkness?—A. Yes; but if they had been in citizens' clothing, they would not have been without distinction.

Q. If they had been in citizens' clothes, they would have been distinct, and you could have told?—A. Yes; they would have been distinct, and I could have told.

Q. Would not that depend on the color of the clothes?—A. If you get eight or ten citizens down there together, there will be a distinction, enough for you to tell.

Q. They seemed to be dressed alike, as far as you could tell?—A. As far as I could tell.

Q. That is all you can say?—A. Yes, sir.

Q. You could not distinguish the clothing at all?—A. Not in detail.

Q. You could not even tell whether they had guns or not?—A. No, sir.

Q. You so testified, did you not?—A. Yes, sir.

Q. The men you saw. Now, did you see any guns in the hotel that night?—A. Yes, sir; I saw some guns.

Q. Where did you see these guns, and what kind of guns were they?—A. One of them I know was a six-shot Winchester shotgun.

Q. A shotgun; a Winchester. Where did you see that?—A. It was in the parlor of the hotel.

Q. In the parlor of the hotel? How did it happen to make its appearance there? Did somebody bring it there? And if so, who brought it there?—A. I will not be positive who brought it. It was there when I came back from the gallery.

Q. That is, from the point where you looked out and saw the lieutenant of police?—A. Yes; when I came back in the parlor from the window the gun was in the parlor.

Q. So that when you went back off of the gallery you went into the parlor?—A. I went off from the gallery into an unused room—a vacant room.

Q. How long did you stay there in that unused room?—A. Possibly two minutes.

Q. The firing was all over then, as I understand it?—A. Yes, sir.

Q. And there was no more firing in that location? It had passed on up the alley, had it?—A. Yes, sir.

Q. You could hear them up the alley, firing, at that time?—A. I do not recall hearing any more shots after I left the window.

Q. Well, but I mean after you left the window?—A. Yes; I heard shooting on up the alley, somewhere up in the neighborhood of Tillman's saloon, possibly. It sounded so.

Q. Did you hear any firing about that time up at the corner of Thirteenth and Washington streets?—A. No; that firing had about all ceased, as I remember it.

Q. That was all over when you went to this second-story window?—A. Yes; when I left the window I think the firing was all over.

Q. You have told us about one of the guns that you saw in the parlor. Did you see any other gun?—A. There was another gun. I do not recollect the nature of it; it was a hunting gun; not a ball Winchester.

Q. Did anybody have these guns when you saw them? Were they in the possession of anybody, or were they left standing around in the parlor, loose?—A. I think they were standing by the fireplace.

Q. They were what?—A. Either standing or lying near the fireplace.

Q. Were there any other persons in that parlor when you saw the guns there?—A. There were two or three of us. There was Mr. Davis.

Q. Who?—A. Mr. Davis, the clerk of the hotel.

Q. Yes.—A. And Mr. Goldsmith, whose room was opposite mine, on the third floor.

Q. What was the business of Mr. Goldsmith?—A. He is managing a rice mill, I think.

Q. A rice mill, you say?—A. Yes, sir.

Q. Where is that located; in Brownsville?—A. Yes, sir.

Q. Those men who were moving around in the dark, whom you saw after you went to this window on this floor and looked out, how many of those men were there?—A. I could not say exactly. Oh, between five and ten. I could not say; it was indistinct.

Q. What did you do next, after you saw the guns in the parlor?—A. I think, standing in the hall, I talked to one or two parties that were in the hotel that night.

Q. Did you see any soldiers after that, during that night?—A. I saw a company coming down Elizabeth street after, say, ten or fifteen minutes; I do not remember how long; some little while. I saw a company coming down the street some little time after the firing was over.

Q. From which direction did they approach the Miller Hotel from?—A. From the town.

Q. From the town?—A. Coming towards the garrison.

Q. That is, they were coming up Elizabeth street, were they?—A. Yes, sir.

Q. Do you know how many of them there were?—A. No; I do not recall, except it looked like perhaps nearly a full troop.

Q. Forty or fifty men?—A. Something like that.

Q. Something like that. They were under the command of an officer, were they not?—A. Yes, sir.

Q. What did you observe as to their conduct?—A. It was a very irregular line, and did not appear to me to be under good command.

Q. I will read here what was said by you before Mr. Purdy as to this:

Q. You did not hear anything that was said by these soldiers after the shooting was all over and the squad came out on to the street?—A. While I was standing on the front gallery the lieutenant officer was bringing in that squad that went out, and I saw that they were under very poor control. That squad was with a white officer.

By "squad" you mean this company that I have been talking about, do you not?—A. Yes, sir.

Q. You did not see any soldiers except those we are talking about that night, did you?—A. That was all that I saw; yes, sir.

Q. I will read you the next question and answer:

Q. What indicated to your mind that it was under poor control?—A. The irregularity of the movement. It appeared to be ready to break away from command at the slightest provocation. It just looked to me as though it was impossible to control them, and I hesitated very much to stand on the gallery and see them go by. That is the feeling I had.

That is correct, is it?—A. That is correct.

Q. Just describe to us what you saw these men doing that gave you this feeling of uneasiness and insecurity?—A. The way they held their guns, as if expecting to use them at once; the irregular line, their way of looking on either side of them and at everything gave that feeling of insecurity.

Q. Were they not marching along the middle of the street in column of fours?—A. I don't remember whether it was fours or twos.

Q. Well, they were not marching in battle line, were they, up the street?—A. No; they were in column of either twos or fours.

Q. Twos or fours. And what you observed as to their looking either to the right or left, and the way they held their guns, made you uneasy?—A. Yes.

Q. You did not see any disobedience of any orders that the officer gave, did you?—A. No.

Q. Did they stop there in front of the hotel?—A. No.

Q. They passed right on?—A. They went on.

Senator FORAKER. That is all.

By Senator FRAZIER:

Q. You were asked by Senator Foraker with reference to some guns that were in the parlor. Were those guns gathered in there by the clerk of the hotel and others, after the shooting occurred, with the view of protecting the hotel if there should be a renewal of the attack?—A. Yes.

Q. Explain how that occurred.—A. One of the guns, I think, was brought up from the hotel office by the hotel clerk. The other, I think, belonged to Mr. Goldsmith.

Q. And they were there with a view of protecting the occupants of the hotel if the attack should be renewed?—A. Yes; if an attack should be made upon the hotel, that they should be used.

Senator FRAZIER. That is all.

By Senator BULKELEY:

Q. Was there anybody in the parlor when you went in there, or was it unoccupied?—A. The first time it was unoccupied.

Q. I mean when these guns were in there, was there anyone in there?—A. They were in there when I came back from the gallery.

Q. Who was there?—A. Mr. Davis and Mr. Goldsmith.

Q. And these guns were lying on the floor?—A. They, I presume, had brought them in.

Q. You do not know?—A. No, sir.

Q. But the guns were lying on the floor. I think you said, near the mantelpiece, near the fireplace?—A. Yes, sir.

Q. Either on the floor or standing there?—A. Either on the floor or standing near by; yes, sir.

Q. You do not know how they came there?—A. No, sir.

Q. Did you hear Mr. Davis or Mr. Goldsmith say anything about them?—A. In conversation afterwards I understood they brought them in.

Q. Had you ever seen those guns before, or either of them?—A. I had not noticed them enough to recognize them.

Q. You do not know how long they had been there—in the parlor. I mean?—A. I think they had only been there a few minutes when I entered. Those two men had come in there while I was out on the gallery.

Q. Whether they had been left there alone or not, the two guns, without anyone in the parlor, you do not know?—A. No.

By Senator WARNER:

Q. About these guns, you say one of them was a shotgun?—A. Yes, sir; a 6-shot magazine gun.

Q. And the other was what kind of a gun?—A. I do not recall what kind of a gun it was.

Q. Both of them were shotguns, were they?—A. Yes, sir.

Q. That is, to carry shot and not bullets?—A. Yes, sir.

By Senator FORAKER:

Q. Shotguns are rifled just the same as rifles now, are they not?—A. The hunting gun is different; of course it will carry a bullet as large as a small-caliber rifle.

Q. But do you know whether or not shotguns are rifled as rifles are?—A. I think not.

Q. You think not?—A. Yes, sir.

By Senator BULKELEY:

Q. Do you use a cartridge in these guns the same as in a rifle?—

A. No; we use a shotgun shell.

Q. That is what I mean. You use a shell just the same as you do in a rifle?—A. Yes, sir; with a breech-loading rifle.

By Senator WARNER:

Q. I have here a question and answer which have already been read to you from page 82 of Senate Document 155, a copy of which you have before you. Have you that page before you?—A. Yes, sir.

Q. In the first part of your answer you say:

I did not see a single man that I am sure.

I will get you to state if the meaning of that is not that you could not be sure of any single man.—A. Yes; I had in mind that I saw no one distinctly enough to recognize whether I had seen him before or so that I would know him later. That was my meaning.

Q. That is what I supposed. Now, on the same page you had this also read to you:

Q. Did you see or hear anything that would lead you to believe that they were negro soldiers?—A. Nothing, except the general tenor of the affair.

When you used the words "general tenor of the affair," did you mean the general appearance of the soldiers and everything connected with them—the voices and all?—A. Yes; the appearance, the voices, the guns, and so forth.

By Senator FRAZIER:

Q. The uniforms that they had on, and so forth?—A. Yes, sir; everything that I could sum up impressed me to that effect.

By Senator WARNER:

Q. That is, the general tenor of the affair; that is, everything connected with it?—A. Yes, sir; that it could not possibly have been any other men.

Q. As you recognized the color and the uniformity of the dress, their voices, as being those of negroes, and so forth?—A. Yes, sir.

Q. You have been led through your life, apparently, by the questions of Senator Foraker. How long have you been a member of the church?—A. About twenty or twenty-two years.

Q. You never have been ashamed of it?—A. Not often.

Q. What do you mean by "not often?" That is, ashamed of being a member of the church. I mean?—A. No; I have never been ashamed of being a member of the church.

Senator FRAZIER. Possibly he meant that he might have been ashamed of some of the members of the church.

By Senator WARNER:

Q. All these years that you have been speaking of you have worked and earned your own living?—A. Yes.

Q. And have done such work as you have described?—A. Yes.

Q. And when you were in a place where there was a mission, and they needed some one temporarily to occupy the pulpit in the church in one of these little places, you occupied the pulpit and did the best you could?—A. Yes, sir; I did the best I could.

Q. Although you were not licensed?—A. No, sir; I was not licensed. The Southern Methodists know the difference between license and ordination.

Q. That is, licensed how?—A. In the Southern Methodist Church one is licensed, and later he is ordained. If he wants to continue in the work he is ordained.

By Senator OVERMAN:

Q. He is licensed by the district conference?—A. Yes, sir.

By Senator WARNER:

Q. He is regularly licensed to go out and preach?—A. Yes, sir.

By Senator FORAKER:

Q. You do not want to change any of your answers to my questions, do you?—A. I do not recall any that I want to change.

Q. And when you say you knew it was the soldiers, and had not any doubt whatever on that subject, because of the general character of the whole affair, you also want the statement to stand that as soon as you heard the firing you knew it was the soldiers?—A. I felt positive of it then.

Q. What is that?—A. I was positive of it then.

Q. Yes; just as soon as you heard the shooting, before you had seen anybody?—A. Yes.

Q. That was because of the feeling which you knew existed against the soldiers amongst the citizens?

Senator WARNER. I submit that is hardly proper, Senator Foraker. I have not gone into that at all.

Senator OVERMAN. Let him answer and give the explanation.

THE WITNESS. What was the question?

Senator FORAKER. I do not care to press that last question. I will just withdraw the question. That is all.

By Senator BULKELEY:

Q. Did you see any guns in the hands of any men that night, except in the hands of this company of soldiers that you saw marching down the street?—A. I saw some citizens with guns.

Q. Some citizens?—A. Yes, sir.

Q. But I mean did you see anybody that you thought was a soldier with a gun, except this company of soldiers that were marching down the street?—A. No, sir; I did not see any soldiers with guns in their hands, except this company of soldiers.

Q. Do you remember this assemblage that was addressed by Mayor Combe?—A. Yes, sir.

Q. Did you see any citizens there with guns?—A. Yes, sir; I saw citizens there.

Q. How many?—A. I do not recall. They were breaking up and going away and dispersing when I arrived.

Q. How many were there—ten or one? Were many of them armed?—A. There were quite a number of them armed.

Q. Quite a number?—A. Yes, sir.

Q. What kind of guns did they have, if you remember?—A. Any kind they happened to possess.

Q. They were of a promiscuous character?—A. Yes, sir.

Q. Some shotguns?—A. Yes, sir; some shotguns, and some rifles, and some pistols.

Q. So that there were quite a number of them armed?—A. Yes, sir; quite a number of them armed that night.

Q. Did you talk with them?—A. No, sir; very little. I went back to my room. I thought it best not to agitate things that night.

Q. They were dispersing, and you thought it best not to have any conversation with them?—A. No.

By Senator OVERMAN:

Q. Did you see any guns in the hands of citizens prior to the firing?—A. Yes.

By Senator FRAZIER:

Q. This was after the firing was all over that you saw the citizens with guns?—A. Yes, sir.

Q. And after the town was raided and houses shot into?—A. Yes, sir.

By Senator BULKELEY:

Q. Where were you the most of that day; on the street or in the hotel?—A. I was on the street the most of that afternoon.

Q. What time did you retire?—A. It was about a quarter to 12. I was talking with Mr. Hammond and others that evening, and it was almost 12 o'clock.

Q. What time did you come off of the street into the hotel?—A. In the afternoon?

Q. No; in the evening. You said you were on the street in the evening. What time did you come back in the hotel and remain there?—A. It must have been as early as 9 o'clock.

Q. After 9 o'clock you did not go out on the street?—A. No; I was in the hotel talking with various people.

Q. So that you would not have any opportunity to see citizens on the street, armed, if they were there, would you?—A. No.

Senator BULKELEY. That is all.

By Senator FRAZIER:

Q. You never saw or heard of any?—A. No.

Senator FRAZIER. That is all.

(Witness excused.)

(At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reassembled at the expiration of the recess.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF PAULINO S. PRECIADO.

PAULINO S. PRECIADO, being first duly sworn, testified (through the interpreter) as follows:

By Senator WARNER:

Q. Give your name in full.—A. Paulino S. Preciado.

Q. What is your age?—A. Fifty-two years.

Q. Where do you live?—A. I am located in Brownsville, Tex.

Q. How long have you lived there?—A. Twenty years and some months.

Q. What is your business?—A. I am the editor of a newspaper and a bookbinder, having a bookbinding establishment.

Q. What newspaper is it that you edit?—A. It is called *El Porvenir*.

Q. Is that newspaper published in the English or the Spanish language?—A. In Spanish.

Q. How long have you published that paper?—A. Seventeen years, consecutively.

Q. Were you in Brownsville on the 13th day of August of last year?—A. Yes, sir.

Q. Do you know of the fact of the shooting at Brownsville that night?—A. Yes, sir.

Q. Where were you when you heard the first of this shooting?—A. I was in the center of the Ruby Saloon.

Q. In the saloon or in the court?—A. In the court within the saloon.

Q. The court is in the rear of the saloon, is it?—A. Behind the saloon.

Q. What is the location of that saloon; that is, on the street, if you know?—A. On Elizabeth street, between Twelfth and Thirteenth.

Q. The building marked "No. 8" here on the map, this [indicating] being Twelfth street and that Elizabeth street, is marked as the Tillman saloon.—A. That is it.

Q. Where was the first shooting you heard, as nearly as you could tell from the sound?—A. At the side where the barracks are, or the fort.

Q. Did that shooting come from the barracks and proceed up in the town?—A. Yes, sir.

Q. What was that report; whether it was a heavy firing, or whether it was that of pistols?—A. The sounds were not those of a pistol. They were thinner shots, more like rockets.

Q. Describe, if you will, this court back of the Tillman saloon.—A. The saloon is divided into two rooms, which open onto Elizabeth street. One was a fruit store, the other was the saloon. This room had a division in the center. On the right, next to the street, white people were served, and there was a sign pointing in the other direction, this sign consisting of a hand, and had a sign below it saying "Negroes." Where the two rooms ceased, or at the extremity of the two rooms, there was a door, that is, in the rear part of the room. There begins a square courtyard. It was a two-story building, and there were rooms on the side next to the alley and on the left. On the other side there is a high building. The courtyard has a cistern, near the saloon. There were three or four lighted lamps placed there.

Q. In this courtyard?—A. Yes, sir; one against the door which opened to the alley. This is a description of the courtyard. Between the cistern and the door of the saloon there was a rather large table where there were three individuals seated, in addition to the owner of the saloon, the saloon keeper. Mr. Tillman, the owner of the saloon, came to talk with us. He had in hand a lantern which he placed over the mouth of the cistern. Nicolas Sanchez Alanis

seated himself at the head of the table, Antonio Torres here, and I upon this side [indicating]. We ordered the barkeeper to serve two bottles for the three. We were filling our glasses when we heard an explosion, a shot—many shots at the same time. This was followed by four shots which we could distinctly hear. Just as the first volley and these four shots had ceased Mr. Tillman left the spot where he was and went out upon the street, that is, Elizabeth street.

Q. Right there, did Tillman say where he was going then?—A. No; not a word.

Q. Go on.—A. We all arose to our feet and went to the door which opened upon the street. We stood upon the pavement or sidewalk to observe what was passing, because we heard many shots. At this time Mr. Jose Crixell, the owner of the saloon in front, said "Close up, for here come the negroes."

Q. By Mr. Crixell, the owner of the saloon in front, do you mean the owner of the saloon across Elizabeth street?—A. On the opposite side from that where Tillman's saloon is located. We went in and a servant of the Tillman saloon closed the saloon.

Q. Who was it that closed the saloon?—A. The servant or barkeeper.

Q. What was his name?—A. Frank Natus.

Q. He closed and locked the door?—A. He put crossbars to the doors. The doors were closed and crossbars were placed. He closed three doors. We stayed there for a moment and heard more shots coming with greater strength. Afterwards the barkeeper said: "The door of the alley is open. I am going to close it." He took a pistol from below the bar or counter and went in the direction of the door of the alley. I followed after him, six or eight paces behind. He was approaching the cistern, when Nicolas Sanchez Alanis was in the back part. He had gone to the toilet, and he shouted to Frank Natus, "Don't go out. A noise is heard in the alley." Then Frank Natus turned around as if to go in the direction of the saloon. At this moment a group of five or six armed men appeared and fired. One of the shots entered Frank Natus here [indicating].

Q. That is, in the side?—A. Yes, sir; as he turned to go in the direction of the saloon.

Q. As who turned to go in the direction of the saloon?—A. Frank Natus, in view of the voice that he had heard, Nicolas Sanchez Alanis telling him to return because there was a noise in the alley. At the moment he wished to return appeared a group of men at the door, and they began to fire.

Q. Was that the door or gate of this courtyard?—A. The gate or door of the court which opens upon the alley. Frank Natus received a shot and fell upon his back, saying, "Oh, God."

Q. Did he say that in Spanish or English?—A. In Spanish. I was six or eight paces behind him in the direction of the gate or door. Then, of the shots that were fired, a ball scraped my hand. Another ball entered here [indicating] and broke these spectacles and certain papers which I carried here.

By Senator FRAZIER:

Q. Explain where "here" is.—A. This is the clothing that I wore at that time.

By Senator OVERMAN:

Q. Was that hole made by the bullet?—A. Yes, sir; and the vest also.

By Senator FOSTER:

Q. A hole in the vest also?—A. It is scarcely noticed, but nevertheless it passed through. After they had fired a number of times—five or six times—that can be seen there in the doors and walls—I went to one side and went to a brick corner. I had this box of matches [indicating] and went to light a match, and I stood in this position [indicating] to wait to see whether there would be more firing. Being in this position, I noticed a number of drops of blood at my feet, and I was anxious to know the condition of my companions. When I did not hear any noise whatever, I left the corner where I was and inquired for the others who had been with me. Mr. Antonio Torres was under the bar, and replied to me. I asked him, "What has happened?" He said, "Nothing, to me; nothing," and I said to him, "To me, yes. Look at my hand; it is bleeding." The shots continued in the street. I said, "I am going to shut the gate, because if they come again they will finish us," and I went to close it. Nicolas Sanchez Alanis, who was in one corner doubled up, did not allow me to reach the gate on account of the danger, but I went to evade the shots of others should they come. Seeing that I reached the gate, Sanchez Alanis went to aid me in closing it, because I was very much excited, fearing that there would be more soldiers, and I was in very much of a hurry, wishing to close the gate. I closed—or better, we closed—the gate, and we returned to the center of the saloon together, together with Antonio Torres. Many minutes passed. No one came to the saloon, it being closed both on the street side and the alley side. The doors of the street were all closed. Tillman did not appear, and we were afraid that he had been killed in the street. Time passed, and no one came, and we opened one of the street doors to give notice or alarm the people of what had occurred. At some 50 paces I saw a group of people, and I inquired, "In that group is there an employee?" A voice answered, "Here am I."

By Senator FRAZIER:

Q. What does he mean by "employee?"—A. I meant a policeman. This voice responded or replied "Here am I." I said to him, "Come here." I opened the door to allow him to enter the saloon of Tillman. This policeman was Victoriano Fernandez. I advised him that the barkeeper was dead. He went to see him at the side of the cistern where he was lying. He said, "You are special policemen designated to care for this place until I bring the justice of the peace." Afterwards Genaro Padron arrived and stationed himself at the street door, but many people came to see what had occurred. They saw that the blood was running from here [indicating].

By Senator WARNER:

Q. Blood was running from where?—A. I could not see from where it came.

Q. But blood was where? On what? I mean was it on your hand?—A. On my left hand.

Q. That is where the blood was running from?—A. Yes, sir. I was looking, and I did not know where it came from. They had me

take off my coat and vest to see if I was wounded. Doctor Combe, the mayor of the city, ordered that I be examined to see if I was wounded, while he was examining the dead man. This passed, and a moment after, when there were many people there, some one noticed that a troop of soldiers were marching along the center of Elizabeth street and said, "Here comes the negroes," and all the people disappeared under the counters and behind boxes. With this, what I saw there terminated, because at 2 o'clock of this morning I went to my home.

Q. How long had you been in the saloon before the firing?—A. Two minutes had scarcely passed, because we had just arrived there.

Q. And you had not yet gotten the bottles which had been ordered?—A. They were serving when the first shots occurred.

Q. The next day did you notice, or have you since, where the bullets struck there anywhere at the Tillman saloon?—A. Yes, sir.

Q. How many marks of bullets have you seen there?—A. Four.

Q. Did you see by the light that was there in the courtyard whether or not it was soldiers who did the shooting?—A. Yes, sir.

Q. How do you know they were soldiers?—A. Because by day the soldiers could be seen dressed in their habitual clothing. Their color and clothing was well known there, because very different from that of others.

Q. Was the uniform that these men were wearing the soldiers' uniform?—A. Of the soldiers; yes, sir.

Q. Also could you, by the light in the courtyard, tell that they were colored men—negroes?—A. It was possible to distinguish.

Q. Did you distinguish?—A. Yes, sir.

Q. How many were there who came to the gate, or just inside the gate, whatever it was?—A. There were five or six, but I did not have an opportunity to count. They were moving.

By Senator OVERMAN:

Q. Were they black men or white men? You said you could distinguish?—A. Colored men.

By Senator FRAZIER:

Q. Did they come inside the gate?—A. Within the gate, three or four paces.

By Senator OVERMAN:

Q. How far from the lights?—A. From the light at the gate it was 3 yards. The other lamps were distributed in the court.

By Senator WARNER:

Q. If you know, give the size of the court back of the saloon; that is, its depth and width, if you can.—A. Its longitude is less than this room, and it is square. It has approximately 40 feet.

Q. There were three lamps, you say, in the court?—A. I don't know positively how many, but there were a number. We had light in the court, and the lamp of Mr. Tillman, which he left there over the cistern.

Q. That light was there so that they could serve customers back in the court?—A. For the customers.

Q. In the hot weather this court was where the customers sat down and were served, was it not?—A. Yes, sir.

Q. You testified before the coroner?—A. Yes, sir; of the death of Frank Natus.

Q. And before the citizens' committee?—A. No, sir.

Q. Where else have you testified besides before the coroner?—A. Before the grand jury and the district court.

Q. Before the grand jury—that is, of the district court?—A. Yes, sir; and also before Major-General Blocksom.

Q. Did you testify before the coroner or before the grand jury that you saw those parties who did the shooting?—A. No; I did not testify that, because they did not ask me.

Q. Were you examined before the grand jury and before the coroner through an interpreter?—A. Through an interpreter; yes, sir.

By Senator OVERMAN:

Q. Did you state before the coroner or before Major Blocksom that you did not see the men who did the firing?

Senator FORAKER. To Major Blocksom he stated he did see them.

By Senator OVERMAN:

Q. Did you state before the coroner or the grand jury that you did not see them?—A. They did not ask me whether I recognized them or not.

By Senator FOSTER:

Q. Did you recognize five or six negro soldiers in that courtyard that night?—A. Yes, sir.

Senator WARNER. I am through.

By Senator FORAKER:

Q. Where were you when you saw these soldiers?—A. In front of the door of the saloon of that department set apart for the negroes

Q. Inside?—A. Within the room.

Q. And looking out into the courtyard from the inside of the room?—A. Yes, sir; within the room, looking out through the door to the back part of the courtyard.

Q. How long had you been standing there at that place?—A. One minute, or less.

Q. Where had you come from?—A. Following Frank Natus, who went to close the door.

Q. Did you see Natus when he was shot?—A. When they shot him is when I saw the group.

Q. Did you see Natus when he fell?—A. Yes, sir.

Q. You saw him just when he fell. How far were you away from him when you saw him fall?—A. Some 8 or 10 paces.

Q. Was the door closed between you and Natus?—A. No, sir.

Q. The door was open?—A. Open.

Q. Did any of the bullets come towards you where you were? I mean was it at that time that you were shot through the clothing?—A. In this time, in those discharges which they made.

Q. Did you know then where the bullet that passed through your clothing lodged?—A. No, sir.

Q. Did you look for it?—A. In this moment I could not do anything of the kind.

Q. What was behind you?—A. The room was behind me.

Q. How far were you from the wall that was behind you, toward which this bullet must have gone, and what kind of a wall was it?—

A. It was about as long as or longer than this room; not as far as to the second door, but longer than to the first door.

Q. Would a bullet going on in that direction to the wall, if it passed through, go on out into Elizabeth street?—A. Yes, sir.

Q. It would go on out to Elizabeth street. How many bullets were fired in that door where you were standing at the time this one went through your clothing?—A. At this door I could not tell, for the door was open.

Q. Was there any opening out onto Elizabeth street behind you?—A. There was a wall and the street doors.

Q. Would a bullet going through the door where you stood go on out across Elizabeth street?—A. There are the marks of three bullets in the street doors. One ball penetrated the corner of a box of wine and penetrated the wall. Another ball passed a window or a pane of glass. Another broke a hinge, passed through the door, and reached the corner of a street pillar.

Q. Where was that street pillar?—A. Beyond the porch, at the edge of the sidewalk.

Q. Then some of these bullets that were fired through the door where you were standing went on through the wall and the door out onto Elizabeth street?

Senator WARNER. He does not say they went through the door, Senator.

Senator FORAKER. They went through the wall or the door somewhere. I do not know where.

A. Yes, sir.

By Senator FORAKER:

Q. They went clear across?—A. Yes, sir.

Q. Do you know of any of those bullets being found?—A. I don't know.

Q. What is opposite Tillman's saloon, over on the other side of Elizabeth street?—A. The saloon of Teofilo Crixell.

Q. Do you not know of a bullet being cut out of a post in front of Crixell's saloon?—A. I don't know this detail.

Q. Later, as late as in the month of October? You understand me, do you not, without the interpreter? Do you not understand what I am saying to you now? You do not understand. Well, I will ask you through the interpreter, then. Do you not know that in the month of October last year one of these bullets that went through there was cut out of a post in front of Crixell's saloon?—A. I do not know it.

Q. You do not know anything about that. Did you never hear of that?—A. No.

Q. Let me refresh your recollection. Do you not know Lieutenant Leckie, of the Twenty-sixth Infantry?—A. No, sir.

Q. You do not know him?—A. No, sir.

Q. And you did not hear of an officer of the Twenty-sixth, Lieutenant Leckie I refer to, coming there in October, and this bullet hole being pointed out to him in the post, and of the bullet being cut out by him and others in the presence of quite a number of people, and found to be a lead bullet without any jacket on it? You do not know of that?—A. No, sir; I know nothing of this detail, absolutely.

Q. If such an item as that happened, you did not get it into La Porvenir?—A. No, sir.

Q. How many of these men did you see in the courtyard?—A. I could not count them definitely, but it was a group of four or five.

Q. Were they all firing?—A. All.

Q. All firing?—A. Yes, sir.

Q. With four or five guns?—A. With four or five carbines.

Q. How many shots did each one fire?—A. One alone, or two each one. I did not observe.

Q. Were they all firing at Natus?—A. They gave a shot at Natus, and it followed—pop, pop, pop [illustrating].

Q. All these shots?—A. Yes, sir.

Q. As though all fired right at him?—A. As though they were shooting inward.

Q. Were any of them shooting at you—pointing at you?—A. They were shooting inward, and I was in that direction.

Q. You were right in line with the way they were shooting?—A. Yes, sir.

Q. So that there must have been five or six, perhaps ten or twelve, of these shots fired inside the courtyard?—A. I can not say how many. I have seen the marks of four shots.

Q. But a lot of them went through the door, and some of these marks were on the Elizabeth street side of the saloon?—A. One that I saw across the street.

Q. One that went across the street?—A. One knocked off the corner of the pillar.

Q. What pillar?—A. One that is in front of a door. It passed through the door and touched the corner of a post or pillar.

Q. It just grazed that post, did it?—A. The very corner of it.

Q. And went on. It did not stop there?—A. No; it did not penetrate it. It just knocked off the corner, and I don't know where the ball went.

Q. It went straight on towards Crixell's saloon, did it?—A. In that direction it went; but I don't know whether it reached there or fell in the street.

Q. Did you hear any firing out on Elizabeth street at all?—A. No, sir.

Q. Let me ask you about another thing. Where were you the early part of the evening?—A. I was in my house.

Q. What kept you up so late that evening, about midnight?—A. Because I went to a company, with Nicolas Sanches Alanis, to lodge.

Q. You went to a lodge meeting?

Senator WARNER. Find out if he did not mean to say he went in company.

By Senator PETTUS:

Q. Where were you shot? Where did the blood come from?—A. Right here on the left hand.

By Senator FORAKER:

Q. I want to find out where you were. Were you at a lodge meeting?—A. No; I was waiting for Nicolas Sanchez Alanis outside.

Q. Outside of where?—A. Of the meeting place of the lodge.

Q. Did you spend the whole evening there waiting for a man to come out from the lodge, until a quarter before 12?—A. I waited a moment, because he told me he would soon come out.

Q. I am talking about the whole evening. Where were you before you went to the lodge? If you went in there only a moment, where were you the rest of the evening?—A. I waited there a little bit. Then I went to the saloon of Crixell.

Q. What time did you get to the saloon of Crixell?—A. After Alinas entered the lodge.

Q. As I understand it now—let us get it right, for this is important—you say you went in company with Alanis to the lodge that evening?—A. I accompanied Alanis to the place where the lodge met, and waited for him outside.

Q. At what time did you accompany Alanis to the lodge, and how long did you wait on the outside?—A. Between 9 and 10 at night.

Q. Where had you been up until that time in the evening?—A. In my house and out on the street.

Q. Had you been in company with anybody?—A. Yes; with Sanchez Alanis.

Q. You had been with him before you went to lodge?—A. Yes, sir.

Q. Had you and he been in any saloon before you went to the lodge?—A. No; in his house.

Q. How long did you wait at the lodge for Alanis?—A. I waited some minutes, and then I went to the saloon of Crixell.

Q. What did you do at the saloon of Crixell, and how long did you remain there?—A. I was in the hall talking with two people.

Q. Were you taking any drinks there?—A. No, sir; we were talking, and as it was very warm we were outside on the street.

Q. In front of Crixell's?—A. In front of Crixell's saloon, in the portal.

Q. How long did you remain there?—A. About half an hour.

Q. Where did you go from there?—A. Nicolas Sanchez Alanis came out, and then we went out and dined at a restaurant.

Q. Whose restaurant?—A. Of a Chinaman that is there.

Q. Where is that?—A. In the door next to the saloon of Crixell.

Q. Then, after you got through dining, where did you go?—A. Mr. Tillman, the owner of the saloon in front, when we were dining, came to eat there also, and Mr. Tillman said, "After you are through eating I invite you to come and take something."

Q. That is how you happened to go there, is it?—A. When we finished eating we crossed the street to the saloon of Mr. Tillman.

Q. Did you notice what kind of arms these men had whom you saw in the courtyard?—A. Oh, yes.

Q. All carbines?—A. Carbines.

Q. And they worked with that click?—A. At this time I did not pay any attention to sounds; I had not sufficient calmness.

Q. You were a good deal excited, I suppose?—A. Yes; seeing the shots in my direction.

Q. Did they stop firing when Natus fell?—A. The first or second shot is the one which he received.

Q. Then did they keep on firing?—A. The shots followed each other one after another.

Q. But did they keep on firing after you fell?—A. They followed on until they had shot the five or six times.

Q. Was it after Natus fell that you were shot through the clothing?—A. When Natus fell I immediately felt the shot.

Q. How did it affect you to have this shot pass through your

clothing?—A. I felt nothing. I did not feel that wound on the hand.

Q. Did you know a ball had passed through your clothing in the way you described it passed through?—A. No.

Q. When did you find it out?—A. When I went to take out my spectacles.

Q. When was that?—A. Afterwards, when there were no people there.

Q. Are these the spectacles you had that night [indicating]?—A. Yes, sir.

Q. Is there any mark on this case that that bullet made?—A. That [indicating].

Q. Are these the spectacles you were using that night?—A. These are those which I had to read or for my work.

Q. And they were in good condition when you went into the saloon?—A. Yes, sir.

Q. Were they in this case just like that [indicating]?—A. They were in this same box.

Q. There is no mark at all on the outside of this box, is there? Look at it and see.—A. No.

Q. And the only mark is the twisted-up condition of the frame that holds the glasses?—A. Yes, sir.

Q. Laid look like they had been in a fire.—A. I had them stored or laid away.

Q. Was the glass knocked out of both of these?—A. Yes, sir; the little pieces have now been lost.

Q. Let me see that hole in your clothing [examining the witness's coat]. Where did you have your glasses?—A. Here [indicating].

Q. In the outside pocket, and it went through there [indicating]?—A. Yes, sir.

Q. And went through the coat that way, and also went through your vest?—A. Yes, sir.

Q. Did it come through your shirt?—A. No, sir.

Q. If it went through your vest, where did it come out?—A. It seems as though it just passed on top of the vest, but it passed through my coat.

Q. Is not the hole clear through the vest?—A. No, sir.

Q. Let me have the pencil, and let us see. Is not that clear through?—A. I thought that was just a scrape along there, but I knew that it had passed through the coat.

Q. Did it not go through the vest twice?—A. I had not observed that.

Q. Well, do you not observe it now?

Senator WARNER. I submit that the scar might have occurred as he says, and the pencil could be run through now.

Senator FORAKER. I am just exhibiting. There is the hole. I have not made any hole. There is a hole on both sides, clear through the vest, is there not?

Senator PETTUS. If you will unbutton that vest, you will see how it went through.

By Senator FORAKER:

Q. You never noticed that had gone through the vest until now, making a hole clear through?

Senator WARNER. He has not stated, Senator, that it went clear through the vest. He says he thinks it made the scar. I submit that is his testimony.

Senator FORAKER. Then I will ask about it.

By Senator FORAKER:

Q. These two holes go clear through the vest, do they not? You need not take it off.

Senator PETTUS. Now put your hand hold in them both.

Senator FORAKER. I will show you, Senator. There is one [indicating] and there is the other one.

By Senator FORAKER:

Q. This goes clear through, also, does it not? There is one, and this one does not go clear through here. You did not feel that bullet at all?—A. No.

Q. You did not know it had gone through?—A. No, sir; until afterwards, when I went to take out my spectacles.

Q. When was it you went to take out your spectacles; that night?—A. The same night.

Q. Where were you; still at the saloon?—A. There in the room.

Q. Where is the other part of the spectacles?—A. I carried them. I had them with me.

Q. Where is the other part of it? Had the other part been broken off?—A. Yes, sir; it was broken away.

Q. Just as it is now?—A. Yes, sir.

Q. Were both glasses out?—A. Yes, sir.

Q. It knocked the glass out of this one as well as out of the other?—A. This one fell and the other one was broken into pieces.

Q. Where have these spectacles been kept since that night?—A. In my desk.

Q. They have been in a very damp place, have they not?—A. It is very humid.

Q. Were these spectacle cases rusted at all at that time?—A. No; they were like these [exhibiting another pair of spectacles].

Q. They were bright, like those?—A. Yes, sir.

Q. Show me where you were hit on the hand.—A. It was there at that spot [indicating].

Q. There is a sort of scar there now.—A. In my work of book-binding I scratch it.

Q. Was that scar made by the bullet?—A. By the bullet; yes.

Q. And there has been a scar there ever since?—A. Since that time.

Q. So that you were hit on the left hand with a bullet, and another bullet went through your clothing?—A. And the other passed through here [indicating].

Q. Did you have your vest buttoned up that night? Just fix it the way you had it that night.—A. That way [illustrating].

Q. That bullet did not hit you on the arm here?—A. No.

Q. Do you know whether it struck you here [indicating], and passed through, going across your body, or whether it struck in your vest first?—A. I know that it struck me on this side [indicating], because the papers which I had in the pocket gave evidence of the fact that they were pushed in.

Q. It struck you about where the coat pocket is?—A. Yes.

Q. So that it struck your glasses, then, before it struck your coat?—A. Before; yes, sir.

Q. Then it went through your coat, and then went through your vest afterwards?—A. Yes, sir.

Q. The hole seems to be much larger where it goes through the coat than where it went through the vest, is it not?—A. Yes, sir; it is larger.

Q. This hole in the coat is a very large one, is it not?—A. Because I have stuck my finger in there many times, to show.

Q. How large was that hole when you first discovered it?—A. It was less than this [indicating].

Q. Less than your finger?

Senator WARNER. No; less than the point of the finger.

By Senator FORAKER:

Q. Less than the point of the little finger?—A. Smaller than the point of the finger, because the papers which I carried—

Q. At the time you received that shot, you were standing, as I understand you, inside the building looking out into the courtyard?—A. Where Frank was falling.

Q. You were looking out where he was falling?—A. Yes, sir.

Q. Were you fronting the men directly?

Senator WARNER. Senator Foraker, of course he started after Natus, you know.

Senator FORAKER. Of course, but he said he stopped inside, and was standing there when these shots were being fired, and when Natus fell.

By Senator FORAKER:

Q. Were you standing looking squarely out at the men?—A. Directly in front of the point from which the shots came.

Q. You were kind of sidewise, were you?—A. When Natus fell I was thus [indicating] and immediately commenced to turn to look for a place.

Q. You ran away from there as quickly as you could, I suppose?—A. Yes, sir.

Q. Did you see the soldiers leave?—A. No.

Q. You simply went to the door, following Natus, looked out, saw them, and saw them shoot him and shoot at you, and then you turned and ran?—A. I tried to hide myself as soon as possible.

Q. You were greatly excited, too, were you not?—A. Yes, sir.

Q. Everything was quickly done?—A. Promptly.

Q. You did not stand there looking any longer than you had to, did you?—A. Only until I could hide myself.

Senator FORAKER. That is all.

By Senator PETTUS:

Q. Take your coat and your vest in one hand—that side of it. Unbutton it. Take hold of both your coat and vest, together; here [indicating]. [The witness took hold of both his coat and vest as directed.] Do you ever hold your coat that way in hot weather?—A. No, sir.

By Senator BULKELEY:

Q. What sort of a door was this you were standing in—how large?—A. It was about like that door there [indicating].

Q. Double or single?—A. It was a double door, of width of about like that.

Q. Were you standing in the doorway?—A. No; I was within the door, about as far as from here to that door [indicating].

Q. But looking straight through to the rear of the court?—A. Yes, sir.

Q. When the firing started—I mean when you heard this firing, saw these soldiers—you were looking straight through that door, were you?—A. The first shots, we were seated at the table.

Q. But I mean when you saw these soldiers in the court?—A. I was walking behind Natus.

Q. This firing was when Natus was killed, was it not?—A. Yes.

Q. You were still in the room, inside the door, and Natus was out in the court, was he not?—A. Natus was going in the direction in which he had gone.

Q. Natus had passed through the door, had he?—A. Yes, sir.

Q. So that Natus was outside the door and you inside 6 or 8 feet?—A. Yes, sir; Natus was outside and I was inside.

Q. For instance, you were looking through the alley direct?—A. Yes, sir.

Q. When the shots were fired—when they began to shoot, when did you feel this bullet strike you or strike your papers?—A. I didn't feel it until afterwards.

Q. You did not feel the bullet strike the papers at all? You only noticed that the papers were crowded afterward; but you were facing the soldiers directly when they fired?—A. Yes; when they commenced to shoot.

Q. There were only five or six shots, were there?—A. Yes, sir.

Q. Did you stand in the doorway all the time these shots were going on—these five or six?—A. No, sir. The instant I saw Natus fall I attempted to conceal myself.

Q. How many shots had been fired before you attempted to conceal yourself?—A. There were a number of shots, five or six, and I only waited until they should cease to shoot in order that I might hide.

Q. So that you did not hide until the five or six shots you heard. You stood in the doorway until the five or six were over and then got away. Is that it?—A. Yes; and then I attempted to hide myself, and I did not hear more.

Q. I want to leave you there, if that is the fact, standing in the doorway until the shooting was over.

Senator FRAZIER. Pardon me, Senator, he did not say he was standing in the doorway.

Senator BULKELEY. He was standing in front of the door.

Senator FRAZIER. The back end of the room, looking out of the door.

Senator BULKELEY. I do not mean right in the door. I mean 6 or 8 feet back.

By Senator BULKELEY:

Q. You remained in that same position, looking toward the alley-way, or toward where Natus was shot, until the shooting was over?—

A. Yes, sir.

Senator BULKELEY. That is all.

Senator WARNER. That is all, Mr. Chairman.

The committee, at 4.07 o'clock p. m., adjourned until Wednesday, May 22, 1907, at 10.30 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Wednesday, May 22, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Scott (in the chair), Foraker, Lodge, Hemenway, Bulkeley, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF HERBERT ELKINS.

(The witness was sworn by Senator Scott.)

By Senator FRAZIER:

Q. State your full name.—A. Herbert Elkins.

Q. How old are you?—A. I lack just a few months of being 18.

Q. Where do you live?—A. In Brownsville.

Q. How long have you lived in Brownsville?—A. Since July 9, last year.

Q. 1906?—A. 1906.

Q. Where had you lived before that?—A. At Sutherland Springs, Tex.

Q. Were you born there and raised there?—A. Yes, sir.

Q. What were you doing at Brownsville at the time of the shooting up of Brownsville on the 13th of August of last year?—A. I was clerking in a confectionery store.

Q. Where were you living, or boarding?—A. At the Leahy Hotel.

Q. Were you in Brownsville on the night of this shooting, the 13th of August?—A. Yes, sir.

Q. Where were you when the shooting began; when you first heard it?—A. I was in my room, in bed.

Q. Where was your room in the Leahy Hotel?—A. It was in the second story, back.

Q. You mean back towards the alley?—A. Yes, sir; the last room facing on Fourteenth street; the last next to the alley.

Q. Now, where had you been before that, during the evening?—A. I had been at the confectionery store until about 10.30 o'clock. I closed up, and went down to the Leahy Hotel. Mrs. Leahy's sister was there, and she asked me to go over to the Cowen residence. She had borrowed some papers or something that she wanted to return, and she asked me to go with her. I went over there, and they would have us stay, and a little after we went there the party broke up.

Q. Was there a party going on at the Cowen residence?—A. Yes, sir; a children's party.

Q. What did you do then?—A. We took the children home, went down about four blocks down the post wall, and then out in the center of town.

Q. You took the children who were attending the party to their homes, several of them, did you?—A. Yes, sir.

Q. Then what did you do?—A. We came on back to the Leahy Hotel, and I went up to my room.

Q. Had you retired, gone to bed, when you heard the first shots?—A. Yes, sir; I had just got into bed.

Q. Were you asleep or awake?—A. I was not asleep.

Q. Now, state what you first heard, and in what locality the shooting appeared to be.—A. I first heard a few shots down just about inside or outside of the post wall, right straight down the Cowen alley.

Q. It sounded like it was right straight down the Cowen alley?—A. Just about the post wall.

Q. About the post wall, or somewhere in that immediate vicinity, it sounded?—A. Yes, sir.

Q. Just proceed in your own way and tell what you saw and heard from that point.—A. As soon as I heard those shots I raised up and sat in the window. I thought it meant there was a fire. Then I heard more shots down there, and then I saw two men—after a little I saw two men—running up towards the corner of the alley, towards Fourteenth street.

(The last answer of the witness was here read aloud by the stenographer.)

The WITNESS. I sat on the bed, I mean. Well, it really is in the window. I was leaning on the window.

Q. Proceed.—A. I saw two men running up towards Fourteenth street, and when they got to about 6, 8, or 10 feet from the mouth of the alley the one in the lead ran into a soft muddy place, and he got out on the sidewalk—there was no sidewalk there, but a hard place, gravel—and he called to the other man to not run ahead, or he would get in the mudhole. They stepped out there and fired about two or three shots each into the Cowen house. Then they reloaded and fired, emptied their guns, I suppose. Anyway, they fired about five times apiece—four or five times apiece—and then they reloaded again, and as they were reloading one man had trouble with his gun, and he stepped over towards the other one and both of them together fixed it. They did not fire any more, but ran on up the alley across Fourteenth street, back of the hotel.

Q. Could you see those men from where you were in your window, so as to recognize how they were dressed?—A. Yes, sir.

Q. How were they dressed?—A. Well, they had on the khaki leggings and pants, and one of them had on a blue shirt and a belt. Whether he had on a cap I do not know; I do not remember. Then the other man was dressed the same way, except he might have had on a coat. I do not remember.

Q. After these men had fired into the Cowen house, state whether any others came up, and then proceed from there.—A. After these men had passed across Fourteenth street into the alley back of the hotel I saw a bunch of soldiers—negro soldiers—came running up the alley. They turned around the corner, and directly in front of the Cowen house—

Q. You mean directly around the corner into Fourteenth street?—A. Into Fourteenth street. Just about the middle of Fourteenth street, between my window and the Cowen gate, they stopped. They stood there like they didn't know what to do, when they heard a voice—I heard a nigger; I suppose it was a nigger, I couldn't say, but at any rate it was in the direction of the back of the hotel where those other two leaders went. When they called the niggers turned around; those that were in front of the Cowen gate.

Q. What was this call, if you remember?—A. I don't remember the exact words, but it was something in the way of "Come this way" or "Come here," or something like that. I don't remember the exact words.

Q. Then what did the bunch of men do?—A. They turned and faced towards my window, towards where the call came from, and I stepped back.

Q. Did any of that bunch of men shoot into the Cowen house at that point?—A. They only shot, well, about two or three times, I suppose.

By Senator FORAKER:

Q. That is, the bunch?—A. Yes, sir; the main bunch.

Q. They shot two or three times?—A. Yes, sir.

Q. That is, each?—A. No, sir; all of them.

Q. All of them?—A. Yes, sir; there were two, I think.

Q. Out of that bunch?—A. Yes, sir.

By Senator FRAZIER:

Q. Then where did they go?—A. Part of them ran on up towards the back of the hotel—started that way. Which way they went I do not know after they left the place in front of the gate.

Q. After they passed around the hotel did they pass out of your sight?—A. No, sir; but I was watching those in front, the part of them that did not run just then. But as they started up that way they fired two or three shots, and that was all the crowd fired, and I stepped back. I do not know which way they went.

By Senator SCOTT:

Q. That does not mean anything when you say "they started up that way." Up what way do you mean?—A. Up the alley north of Fourteenth street, back of the Miller Hotel.

By Senator FRAZIER:

Q. When the bunch of men came into Fourteenth street in front of Mrs. Cowen's house, were they or not nearly in front of your window?—A. They were; yes, sir; right directly between my window and the Cowen gate; about the middle of the street.

Q. About how far were they from your window at that time, could you tell?—A. They were about the middle of the street, and I do not know for sure, but I think the street is about 30 or 40 feet wide.

By Senator SCOTT:

Q. What street was that, please?—A. That is Fourteenth street.

By Senator FRAZIER:

Q. Now, when the call that you heard back of the hotel was made, did the men who were then in front of your window on Fourteenth

street turn with their faces towards you or towards the corner of the alley and Fourteenth street?—A. Towards the alley, which was mighty near towards me, too.

Q. Could you at that distance and at that time see the faces of any of the men so as to know whether they were white or black men?—A. I could see that part of them were black negroes, and that part of them were lighter colored.

Q. Could you recognize that they were negroes?—A. Yes, sir.

Q. You could tell that?—A. Yes, sir.

Q. And did they all of them have on uniforms?—A. The best that I could tell. Those that I could see did. Of course some were standing behind others, but those that I could see good enough had on a uniform. Some had on caps and some hats, but mostly hats.

Q. Did they all have on the khaki uniform that you recognized to be the uniform worn by the soldiers there at the post?—A. Yes; except there might have been—I don't remember exactly, but I think there might have been—one or two in the bunch who had on the blue shirt.

Q. The blue shirt. How many were there in that bunch, if you know?—A. There were about eight, or not over fifteen, anyway.

Q. You did not count them, I suppose?—A. No; just judging from the crowd.

Q. Did they have guns?—A. Yes, sir; those that I could see in front had guns.

Q. Could you tell what sort of a gun it was by looking at it there?—A. Yes, sir. Well, I could tell that it was a gun with a heavy stock running nearly to the end of the barrel.

Q. When the men were firing at the Cowen house from the corner of the alley, near the mouth of the alley, did you hear them working their guns—the levers?—A. Yes, sir.

Q. After they passed out of your sight back of the Leahy Hotel, did you hear other firing; and if so, in what direction?—A. After all of them had passed up from Fourteenth street, from the Cowen house, say, after a little I heard shooting up in the direction of the town that the Miller Hotel is in, or the saloons. Just whereabouts up there I could not tell; in that vicinity.

Q. About how far was your window from the rear of the Leahy Hotel?—A. I do not know just how far in feet, but I do not think it is more than 15 feet.

Q. Did you occupy the rear room of the second story of the hotel?—A. Yes, sir.

Q. Next to the alley?—A. Next to the alley.

Q. Your window fronted on Fourteenth street, as I understand it?—A. Yes, sir.

Q. Was there any window out of your room, fronting on the alley?—A. No, sir.

Q. Was there any other window in your room except the one on Fourteenth street?—A. There is one on the opposite side.

Q. On the opposite side?—A. From the other window.

Q. Who occupied the next room to you?—A. Judge Parks.

Q. During the shooting, or immediately after the shooting, did he speak to you, or did you have any conversation with him?—A. Yes, sir.

Q. Where was he?—A. He was in his own room.

Q. Was he up when he spoke to you?—A. He was up, and when the soldiers passed on by I stepped to the door and talked to him, and he said that they were negro soldiers, and, furthermore, he was standing in front of his window and he called me to his window and told me that they were shooting from the barracks.

Q. How long was that after the men had passed on up the alley?—A. That was just about the time that they were shooting up about the saloon, about that part of town.

Q. Did you look out of his window to see if you could see any shots down towards the barracks at that time?—A. Yes, sir.

Q. What did you see?—A. I saw the flashes and heard the reports of about two or three shots.

Q. Where did those shots appear to be, looking from his window down in the direction of the post?—A. They appeared to be about in, I believe, B barracks—that is, the first on the left from the entrance as you go in.

Q. That would be B Company barracks?—A. Yes, sir.

Q. It appeared to be about at the end of that barracks?—A. The second gallery.

By Senator OVERMAN:

Q. Where was Mr. Parks's window, next to yours?—A. Next to mine.

Q. Looking out of his window, would you look into the gallery of B barracks?—A. Yes, sir.

Q. Were there any houses in that direction, or anything to obstruct the view?—A. Nothing; no, sir. We looked between the Cowen house and the annex to the hotel, there; but there is some 20 feet distance between them.

Q. You had a full view of the barracks from that window?—A. Yes, sir; a very good view. You could not see just a few feet of one end of the barracks, but you could see almost the whole of B Company barracks.

Q. What did you do after the men passed up the alley and Judge Parks called your attention to this firing? What did you next do?—A. After I looked and saw those shots from his window, I stepped back in my room and was dressing, and I saw about two or three more shots from my window from the gallery of the barracks, and about that time Mrs. Leahy said she was going over and get the Cowen family.

Q. State whether or not Mrs. Cowen or any of her family had screamed or given an alarm that they wanted somebody to come to their relief?—A. Well, Mrs. Cowen came out to the front gate and screamed. I do not remember of hearing her, but Mrs. Leahy said she was going over after her, and Judge Parks and I told her if she would wait until we could get enough clothes on to go out into the street, we would go on over, but she did not wait.

By Senator SCOTT:

Q. How do you know that Mrs. Cowen hollered, if you did not hear her?—A. I do not know; I did not hear her.

By Senator FRAZIER:

Q. You did not notice her?—A. No, sir.

Q. But Mrs. Leahy said that she was calling?—A. Yes, sir.

Q. Did you go and bring them, or did Mrs. Leahy go and bring them over?—A. Mrs. Leahy went and brought them over.

Q. Did you see any soldiers at any other time that night?—A. Yes, sir.

Q. When was the next after this that you saw them?—A. Just before I left my room I saw about four or five nigger soldiers running back to the post. They had their guns slinging in one arm. I mean their guns were in their hands, and they were running, and they had them at arm's length [indicating].

Q. Who called your attention to that, if anyone did?—A. Mrs. Leahy's daughter and sister.

Q. Where were they?—A. They were in the room next to Elizabeth street.

Q. Does that face on Thiteenth street, too?—A. Thirteenth. Senator OVERMAN. Not Thirteenth street?

By Senator FRAZIER:

Q. No; that is my mistake. Fourteenth street?—A. Fourteenth street; yes, sir.

Q. Did you look out of your window then, too?—A. Yes, sir.

Q. And you saw four or five men running down towards the post?—A. Yes, sir.

Q. Down the alley in the direction of the post?—A. Yes, sir.

Q. Did Judge Parks see those men, do you know?—A. I do not know whether he did or not. I think he did, but I am not sure.

By Senator TALIAFERRO:

Q. Had the firing ceased, then?—A. Well, I am not sure whether it had or not, but it was uptown; so far up that I might not have paid any attention to it.

Q. It had either ceased, or you were not noticing it at that time?—A. Yes, sir.

Q. Was it a long or a short time after these men had passed up the alley, after they had shot into the Cowen house?—A. Well, it was about five minutes after they had left the Cowen house, after they had shot into it.

Q. That is your estimate of the time, is it?—A. Yes, sir; I do not know. I did not time it.

Q. What did you do after that?—A. I went downstairs, and went uptown to the Tillman saloon.

Q. Did you go into Tillman's saloon?—A. No, sir; I was on the outside. Judge Parks and I went up to get Mr. Cowen. I did not know Mr. Cowen, and so I did not go inside, but Judge Parks went inside to hunt him.

Q. How long did you remain there?—A. I stayed there a very short time, and I left. I did not wait for Judge Parks.

Q. Was there a crowd of people about the saloon?—A. Yes, sir; there was a crowd there.

Q. Then where did you go?—A. I went back to the hotel.

Q. Did you see any soliders at any other time that night, after that?—A. About an hour and a half after the shooting I saw the patrol.

Q. You mean a company of soldiers?—A. A company of soldiers; yes, sir.

Q. Where did you see them?—A. I saw them in front of the Leahy Hotel.

Q. Were they in charge of an officer?—A. I did not see an officer, a white officer, but Mayor Combe and his brother were with them. They stopped just in front of the hotel.

Q. You mean the company halted just in front of the hotel?—A. Yes, sir; and the back end, the rear of the company, just about in front of the gate.

Q. Just in front of the gate?—A. To the left of—

Q. Did you hear any remark made by any negro soldier at that time; and if so, what was it?—A. Yes, sir. Mrs. Leahy and I were standing in the gateway, and a negro soldier made this remark. He said, "We will come back to-morrow and finish the rest of the"—well, I will say—"the rest of the whites up." I am not giving his exact words there.

Q. Did he use an opprobrious epithet of some kind?—A. Yes, sir.

By Senator OVERMAN:

Q. Where was the head of the company, towards the barracks or up towards Elizabeth street?—A. Towards the barracks, up just about the corner of Elizabeth and Fourteenth.

Q. And the rear of the company was just about in front of this Leahy Hotel?—A. Yes, sir.

Q. Had the column stopped, or was it marching?—A. What was your question?

Q. Had the column stopped?—A. Yes, sir.

By Senator FRAZIER:

Q. Had the company stopped?—A. Yes, sir; they had stopped there for some time.

Q. Where was Mayor Combe?—A. He stopped just when the company stopped.

Q. At the head of the column?—A. Mayor Combe was in the rear of the column, and he went on and had a few words with Mrs. Leahy, and then passed on up to the head of the company, and was talking up there with some one; I do not know who it was.

By Senator FRAZIER:

Q. Was anyone up there about that gate, except you and Mrs. Leahy, about that time, except the soldier?—A. No, sir.

By Senator OVERMAN:

Q. Does the rear of the hotel extend to the alley?—A. Yes, sir.

Q. It extends clean to the alley?—A. Just at the end of the hotel, at the alley, there, is a woodshed.

Q. Did your window look out onto the Cowen house?—A. Yes, sir; out into Fourteenth street, my window, and it is right in front of the Cowen gate.

Q. Could you look over the Cowen house into the barracks?—A. I could see the roof of the front of the barracks.

Q. How was it that from your window you could see the shooting in Company B barracks?—A. Well, I could see barracks B up to the right, looking from my window to the right I could see a part of the barracks.

Q. Over the upper corner of the Cowen house?—A. Yes; to the right of the Cowen house.

By Senator TALIAFERRO:

Q. Is there not an open space back of these buildings, both on the alley and Elizabeth street, so that you could look from where you were to the barracks, see from where you were to the barracks, between the Cowen house and the house that is on the corner? You could see through there?—A. Yes; I could see a portion of one of the barracks, I do not remember which one; a very small portion of the corner, the corner of the barracks, upstairs.

Q. By looking over the vacant lot, on the alley?—A. Yes; by looking over the house.

By Senator OVERMAN:

Q. Those houses front on Elizabeth street, and then there would be a space behind which would be vacant, which would give you a space over which you could see? The houses front, some of them, on Elizabeth street and some of them on the alley, and that would leave nothing on the rear of those lots of those houses fronting on Elizabeth street and the alley?—A. Yes, sir.

Q. That would give you an open space to look through, would it?—A. There was an open space between the Cowen house and the house up above at the corner of Fourteenth and Elizabeth streets.

Senator OVERMAN. I wish you would go to map there, and explain to the committee just exactly your range of vision and how you could see the barracks.

By Senator FRAZIER:

Q. Is that the Leahy Hotel? Was your room in the rear of the hotel at substantially the point at which I am pointing now?—A. Yes, sir.

Q. That is the Cowen house is it, fronting on Elizabeth street [indicating]?—A. Yes, sir.

Q. And looking from your window, it fronted on the alley, did it not?—A. No, sir; the Cowen house fronted on Fourteenth street.

Q. It fronted on Fourteenth street. And looking from your window, did your vision extend from the Cowen house to the rear of the barracks?—A. Yes, sir.

Q. And it was the same from Judge Parks's window?—A. His window was just about 6 or 8 feet from mine.

Q. And nearer towards Elizabeth street?—A. Yes, sir.

Q. And you could see from either one of those windows a portion of B Company barracks?—A. Yes, sir.

By Senator FOSTER:

Q. Please just take that rod there and explain to the committee how you did see and what direction you looked.—A. Just about this way, along here [indicating]. I could see the portion from about here to about there of the barracks [indicating].

By Senator FORAKER:

Q. That is, to about the middle of the barracks?—A. Yes, sir; about the middle; but nearly all the barracks except maybe the two ends. I could see the central part of B barracks.

By Senator FOSTER:

Q. Could you see the lower story of the barracks, or the upper story?—A. Yes, sir; I could see both. I could see the ground, out here [indicating].

Q. Is there any other house or dwelling or store fronting on Fourteenth street on the side of the Cowen house?—A. Yes, sir; there is one right here on the corner [indicating]. There is about 20 feet, I suppose, between the two walls—between the two buildings.

Senator FOSTER. That is all.

By Senator FORAKER:

Q. What is that house?—A. It is an annex to the Leahy Hotel.

Q. A part of the Leahy Hotel?—A. Yes, sir.

Q. You lived in that part of the Leahy Hotel which was on the north side of Fourteenth street?—A. Yes, sir.

Q. How many rooms are there in the Leahy Hotel fronting on Fourteenth street?—A. I could not tell you exactly without counting.

Q. Count, and tell me.—A. There were three upstairs, and downstairs—

Q. I am talking about upstairs. Where was your room, upstairs?—A. It was the last on the second story, next to the alley.

Q. Yes; you were next to the alley. Does that figure that is displayed there on the map indicate the relation of that rear end of the Leahy Hotel to the Cowen house, according to your recollection?—A. Yes, sir.

Q. About how large was your room?—A. It was rather small.

Q. How small? Give us its dimensions.—A. I could not tell you exactly. It is about 8 by 12 or 8 by 10.

Q. Eight by 12. Which way was the 8 feet, on the front, on Fourteenth street?—A. Yes, sir.

Q. It is narrower—A. I suppose it is more than 8 feet; about 10 feet. I do not know how much it is.

Q. It is not more than 10 at the outside?—A. Eight or ten.

Q. How does your bed stand in that room?—A. It stands with the head of the bed up towards Elizabeth street.

Q. And towards the alley?—A. Yes, sir.

Q. And how far were you back in the room from the window?—A. Right at the window, about half a foot.

Q. Was that window up that night?—A. Yes, sir.

Q. Did it have a screen in it?—A. No, sir.

Q. No screen in it? It was warm weather?—A. Yes, sir.

Q. No mosquitoes there?—A. Not at that time, I don't think.

Q. You looked right out of your window across the street to the Cowen house, did you not?—A. Yes, sir.

Q. And you stated a while ago that your window was immediately opposite the gate to the Cowen house, did you not?—A. The best I remember, it is.

Q. So that your window was about opposite where I am now pointing, was it not; that is, opposite the gate immediately in the center of the Cowen house [indicating]?—A. I do not know whether the Cowen house gate is right in the center. It might be.

Q. We have a picture of it here. Let us see if you can recognize it.—A. If it is not directly in front of my window, it is nearly so.

Q. Immediately opposite?—A. Yes, sir; one way or the other.

Q. You were in the second story. How high is the Cowen house?—

A. I do not know.

Q. It is a one-story house, is it not?—A. Yes, sir.

Q. With a roof that runs up to a comb in the ordinary way?—
A. Yes, sir.

Q. Looking out of your window were you as high as the comb of that house?—A. I could see over the Cowen house. I could see the top of the roof of the barracks.

Q. Is that a picture of the Cowen house [showing witness photograph]?—A. That one on the left, I think, is.

Q. That is a picture of the Cowen house. Do you know where the gate is?—A. Yes, sir.

Q. You recognize that as a correct picture, do you?—A. Yes, sir.

Q. That is immediately in the center of the house, is it not?—

A. Yes, sir.

Q. Now, you were right opposite that, and looked right across.—

A. I was right opposite that, and it may be I was to the right of that.

I do not know. I do not remember about it.

Q. If your window was in the center of your room, and you looked out of the window—A. It is not in the center.

Q. Where is it?—A. It is next to the partition.

Q. Next to the partition. That is, it is closer to the end towards Elizabeth street?—A. Yes, sir.

Q. How much is it out of the center?—A. About a foot and a half or 2 feet towards the alley from the partition.

Q. So that being where it was, you would see less of the alley looking out, but you could more certainly avoid the Cowen house looking out?—A. Yes, sir.

Q. You were farther away from the alley?—A. Yes, sir.

Q. Here is another view of the Cowen house showing the gate. The gate is in the center of the house, is it not? That is all that I am asking you about now.—A. That does not show all of the picture there [indicating on photograph].

Q. It does not show all, but there is the hallway [indicating on photograph]. Never mind, if you do not know about that. The picture will show for itself. You had just retired when the shooting commenced?—A. Yes, sir.

Q. And you at once got up and looked out at your window?—
A. Yes, sir.

Q. And it seemed to be about the mouth of the alley?—A. Yes, sir.

Q. But whether inside or outside of the wall you can not tell?—
A. No, sir.

Q. How many shots in all were fired then?—A. They were scattering shots. There were about ten or fifteen fired, but there were kind of volleys.

Q. Did you remain in your room until all those shots had been fired?—A. Yes, sir.

Q. Then when was it you went to Judge Parks's room? Immediately after those shots had been fired?—A. No, sir.

Q. How long was it?—A. I did not time it, but it was after those two men ran up and shot into the Cowen house.

Q. How long was it after those shots were fired that the men ran

up the alley and fired into the Cowen house?—A. Maybe a minute, or maybe not so long.

Q. You were looking out towards the alley. Did you hear any noise that attracted your attention and made you look in that direction?—A. Nothing; only some shots about that portion of the alley.

Q. You heard some shots?—A. Yes, sir.

Q. You did not look out onto Elizabeth street?—A. No, sir.

Q. You could have looked out onto Elizabeth street if you had wanted to?—A. Yes, sir; but there was nothing to make me look out that way.

Q. You looked out and saw two men?—A. Yes, sir.

Q. I would like to have you measure on here with a scale. They came up the alley to Fourteenth street?—A. Yes, sir.

Q. And you saw them come to Fourteenth street?—A. Yes, sir.

Q. And where did they take position to do the firing?—A. About 6 feet down into the alley, here [indicating].

Q. That is, 6 feet down in the alley on the side of Fourteenth street, next to the garrison?—A. Five or 6 feet.

Q. Then they did not cross Fourteenth street before they fired into the Cowen house?—A. No, sir.

Q. And they fired into the Cowen house from the alley and from a point immediately opposite, across the alley?—A. Yes, sir.

Q. They were on the opposite side. How near were they to the Cowen house?—A. They were in the alley when they were shooting, and right up to it, opposite from it.

Q. They were 6 feet down in the mouth of the alley?—A. Yes, sir; just about the position of this doorway or window in this house [indicating].

Q. That is the Garza house?—A. That is the Garza house.

Q. Yes.—A. They were just about either here or there, I do not know which [indicating on map].

Q. But they were close to the house on that side of the alley?—A. Yes, sir.

Q. These were the two men?—A. They were not in the center of the alley, but nearer the Garza house.

Q. I am trying to get what that was. I understand you to say that they were on that side of the alley, next to the house?—A. Yes, sir; nearer to the house.

Q. About how long did they stand there?—A. They stood there until they fired about two or three shots apiece.

Q. Then, you saw them load and reload?—A. I saw them shoot and then reload.

Q. What do you mean by reloading?—A. I mean putting in new cartridges.

Q. Now, describe what you saw in that respect.—A. The guns were evidently empty. I could not see it clearly, but took it to be a clip, because they only put in one time. Then they fired about five times each.

Q. Each fired five times, and then loaded again?—A. Loaded again; but one of them had trouble with his gun, and he stepped over towards the other one, and held his gun up this way, and both of them together worked on it.

Q. You saw them fire, and each of them fired about three shots?—
A. Yes, sir.

Q. And then that seemed to empty the cartridges they had in the magazine, and you saw them put in new clips and they fired each five times?—A. I do not say whether it was five times or four times or six times, but along about that.

Q. And then they put in clips again?—A. Yes, sir.

Q. And when they were putting in clips the second time, that was when one of them got into trouble with his gun?—A. Yes.

Q. And he held his gun up to the other, and got him to help him?—
A. Yes, sir; they were stooping over, this way [indicating].

Q. They were down in the alley, yet? They had not moved out of the alley?—A. No, sir.

Q. And you were in your window?—A. When they loaded the second time they were up, a few steps up; not very far, then.

Q. Very close to the same place?—A. Very close to the same place as before.

Q. You saw them load the first time?—A. Yes, sir.

Q. They did not step up then?—A. No, sir.

Q. But when they loaded the second time they had stepped up?—
A. Yes, sir.

Q. Did you ever tell anybody that they stepped up before they loaded the second time?—A. They loaded, you might as well say, right at the same spot.

Q. You never told anybody of their stepping up in that way before, did you, until now?—A. I do not remember whether I did or not. They were mighty near the same spot.

Q. You recollect that distinctly?—A. No, sir; not distinctly; but that is the best of my impression.

Q. That is the impression you have now?—A. Yes, sir.

Q. What kind of a night was this; a dark night, was it not?—
A. Yes, sir.

Q. It was a very dark night?—A. It was an ordinarily dark night.

Q. Was it not more than ordinarily dark?—A. It was light enough to see pretty good.

Q. How far was it from the alley to the rear of the Leahy Hotel, as it is indicated on this map?—A. I never measured it, but I judge it is not over 15 feet.

Q. Then you were some 7 or 8 feet farther out, where your window was?—A. No, sir; from my window to the end I judge is about 10 or 15 feet.

Q. Ten or 15 feet. Can you tell how long that would be?

Senator BULKELEY (after measuring on map with scale). It is just an inch to the end.

By Senator FORAKER:

Q. Yes. Now, how far would it be from the rear of the Leahy Hotel to the alley? That would be 30 feet, and then 10 feet farther back to your window would be 40 feet, would it not?—A. I do not believe it is 40 feet from my window to the alley.

Senator FORAKER. We have this map which was given to us as official.

Senator OVERMAN. That map shows that the Cowen house is right on Fourteenth street, but the evidence is that it is back quite a little from Fourteenth street.

Senator FORAKER. The Cowen house stands a little off from the alley.

Senator OVERMAN. From the alley and from Fourteenth street.

By Senator FORAKER:

Q. How far does the Leahy Hotel stand from Fourteenth street?—A. From Fourteenth street?

Q. Yes. Does it come right out to the sidewalk?—A. No, sir. It goes, I reckon, about 6 or 8 feet from it, the side of it.

Q. The fence immediately in front of it is right on the sidewalk, is it not?—A. Yes, sir.

Q. According to the measurements we have made, your window is about 40 feet from the alley?—A. It could not have been that, because, as I say, this street is only 40 feet wide.

Q. No; but I am talking about the distance from your window out to the alley.—A. Well, I don't believe it is 40 feet.

Q. According to the measurements which have been made, that is the distance—40 feet—so that we will assume that. Then this alley is how wide?—A. I could not tell you; it is narrow.

Q. It is 20 feet wide, is it not?—A. No, sir; it is not.

Q. How wide would you judge it is?—A. I should judge it is about 15 feet.

Q. Fifteen feet?—A. Or maybe 20 feet. It is hardly 20 feet. I never measured it and have never been in it but once or twice, but from the looks of it it is about half as wide as the street.

Q. On this official plat that is given us here, the alley is shown as being 20 feet.—A. Well, maybe it is.

Q. And the street as 40 feet wide.—A. Maybe it is.

Q. So that if the alley is 20 feet wide and you were 40 feet from the alley, you would have been 50 feet from where these men were, would you not?

Senator TALIAFERRO. I think he testified that his window was in the end, about 10 feet back.

Senator FORAKER. No; there is no window looking out at the rear. His window fronts out on Fourteenth street, 10 feet from the end of the building.

The WITNESS. There are three windows back there in that portion of the building, and my window is about there [indicating].

By Senator FORAKER:

Q. You told us that it was 10 feet from the end of the building a while ago?—A. I told you I thought it was about 10 feet.

Q. And you told us that it was nearer to the Elizabeth street side than the other?—A. Yes, sir.

Q. So that to look at those men you had to look across a street 40 feet wide, diagonally, and then across an alley 20 feet wide, which would make 60 feet.—A. I do not know. I can tell you one thing. I saw them.

Q. Yes; I have no doubt that you saw them.—A. I don't know about 60 feet.

Q. Yes; I understand that. Now, you saw them running up this alley before they got to this firing place?—A. Yes, sir.

Q. Could you look across from the place where you were located yourself and see them running up the alley?—A. I could see about one-third of the way down that alley.

Q. One-third of the way down that alley?—A. Yes, sir; one-third or one-fourth.

Q. How fast were they running?—A. I am pretty sure I could see nearly as far as the back of the Cowen house; but looking at this map, it will not show it this way.

Q. You say you could see farther than that map would indicate. How fast were these men running?—A. Not very fast. They were stepping along and holding their guns this way [indicating]; not very fast.

Q. They were running?—A. Yes, sir.

Q. How long did it take them to get from the point where you first saw them to the point where they stopped and did this firing?—

A. They were running along, not fast, but not slow.

Q. It was more than a second?—A. I can not judge.

Q. There were only two of these men?—A. Only two at first.

Q. That is all you saw?—A. At first.

Q. And they stopped and fired three shots each into the Cowen house?—A. Two or three shots each.

Q. And that seemed to exhaust the cartridges in their magazines, and then they put in new clips?—A. Yes, sir.

Q. Each of them did that?—A. Put in new clips; reloaded.

Q. Yes; and then they fired five times each?—A. About that number.

Q. They fired until they appeared to have exhausted those, and then they put in new clips again?—A. Yes, sir.

Q. And when they were putting in the new clips the second time, one of them got into trouble with his gun?—A. Yes.

Q. You could distinctly see all that?—A. Yes, sir.

Q. You saw him hold up his gun?—A. Yes, sir.

Q. What seemed to be the matter?—A. It had hung about the breech, something in there.

Q. Something that hung about it?—A. Yes, sir.

Q. Had they not fired? There was not any difficulty about firing, was there?—A. No, sir.

Q. The shots went one right after another?—A. Yes, sir.

Q. Could you hear them working the magazine, the bolt?—A. Yes, sir.

Q. You could hear that?—A. Yes, sir.

Q. Now, all that trouble, and all this, occurred before you saw this bunch of men?—A. Yes, sir.

Q. And you had not yet left your window?—A. I had not yet left my window; no, sir.

Q. When did you see that bunch of men?—A. After these two men had passed along across Fourteenth street.

Q. That is, the two men, after they got their guns fixed, crossed Fourteenth street?—A. Yes, sir.

Q. You saw them?—A. I did not watch them. They went up that way.

Q. Did you not watch them?—A. As far as I could, yes.

Q. How far did you watch them?—A. Until they got about the corner of the alley and Fourteenth street.

Q. You had no window in your room looking out that way, and you could not see them except by looking out of the window on Fourteenth street?—A. Yes, sir. And, then, my wall is about 2 feet thick, and I could not see them beyond the mouth of the alley.

Q. Your wall is how thick?—A. I do not know; about 2 feet thick.

Q. Is that a brick building?—A. Yes, sir.

Q. Was that built for a fort, or what?—A. I don't know; it is an old Spanish building.

Q. They crossed Fourteenth street and went up the alley somewhere?—A. Yes, sir.

Q. You did not see them after that any more?—A. Not then.

Q. Now, then, I want to find out about this bunch of men. Where did they come from?—A. That bunch of men came the same way as the two men did.

Q. After the two men disappeared, that bunch of men came?—A. They came right up this way and turned the corner here [indicating], about the middle of the street here.

Q. They stopped in front of the Cowen house?—A. Yes, sir.

Q. And then what did they do?—A. There were about eight or ten, or somewhere along there, I don't know just how many.

Q. In that bunch?—A. Yes, sir; and I could see that they were in their khaki uniforms.

Q. How were these two men dressed?—A. Both of them were dressed in khaki.

Q. You saw that distinctly?—A. Khaki; yes, sir; I saw it distinctly.

Q. Is there a street lamp or a light, or anything of the kind, in front of where those two men stood?—A. No, sir.

Q. Nothing of the kind there?—A. No, sir.

Q. And you could see that they were negroes, too?—A. I could see that they were black.

Q. That they were black men?—A. Yes, sir.

Q. Did they have on hats or caps?—A. I do not remember whether they had hats or caps.

Q. You did not notice whether those two men had on hats or caps?—A. No, sir.

Q. How long did it take them to fire those eight shots apiece?—A. They stayed there a little bit; I don't know how long.

Q. Long enough to fire eight shots apiece?—A. You must remember that they reloaded after they fired.

Q. And they stayed long enough to reload, too? Did they stay there more than two minutes?—A. Well, maybe more than that.

Q. Did they run off, or walk?—A. They went in a full run.

Q. They went in a full run as soon as they started?—A. Yes, sir.

Q. Then, when they first came up, how were they coming, running or walking?—A. They were running slowly.

Q. They were running slowly. About where did you first see them?—A. I saw them about here I suppose [indicating].

Q. That is, about 10 or 15 feet down in the alley?—A. No, sir; not that far.

Q. Eight or 10 feet?—A. About 8 or 10 feet.

Q. You saw them in the alley opposite the Cowen house, 8 or 10 feet down in the alley, before they reached Fourteenth street?—
A. Yes, sir; about that.

Q. And there were about how many of them?—A. I do not think there were less than eight or more than fifteen.

Q. And they marched around and took position in the middle of the street, right under your window?—A. When they got here, about the middle of the street, they stopped right facing the Cowen house, and some of them might have been facing this way [indicating].

Q. What did they do?—A. And they acted like they were undecided.

Q. Undecided what to do?—A. Yes, sir.

Q. Did they do anything?—A. I heard a command, or somebody holler, from up here in the alley, "Come here," or something like that; I don't remember the words, but something like that.

Q. Then what did they do?—A. They seemed to be taken by surprise, and turned around to look that way. Then they were facing, some of them, towards my window, that way.

Q. What did they do then?—A. Part of them started up that way.

Q. And did they do any firing at that point?—A. One or two of them—two or three—shot at the Cowen house. I stepped back in my room, and where they went I do not know.

Q. Were you looking out of the window when they fired one or two shots at the Cowen house?—A. No, sir; I had just stepped back that way.

Q. How many shots did they fire into the Cowen house, then?—A. Judging from the sound, it must have been two or three shots.

Q. Did they fire any shots into your house?—A. There were two fired into the back of my room, but I do not know when.

Q. Did you see Mr. Cowen during that firing?—A. No, sir.

Q. You did not know him at that time?—A. No, sir.

Q. You had been there only three or four weeks?—A. I went there on July 9.

Q. And this was August 13. You had not gotten acquainted with the town?—A. No, sir.

Q. You had not seen Mr. Cowen to know him?—A. No, sir.

Q. But you had become acquainted with Judge Parks?—A. He had the room next to mine.

Q. Yes. Towards Elizabeth street?—A. Yes, sir.

Q. Who had the next room to you on that floor?—A. No one had that room.

Q. That was a vacant room. That extended out on Elizabeth street towards Fourteenth?—A. No, sir; this way [indicating], that is one story.

Q. That is only one story, that is the Elizabeth street front?—A. Yes, sir.

Q. There is no second story on that part?—A. No, sir.

Q. When was it you went into his room?—A. After I heard shooting up in this part of the town, somewhere. I took it to be in the neighborhood of the Miller Hotel or the saloons.

Q. After the bunch of men had left?—A. Yes, sir; all of them.

Q. The bunch did not do anything except to fire one or two shots into the Cowen house?—A. No, sir.

Q. Are you sure that they shot into the Cowen house from that place?—A. Yes, sir; I am sure that they shot into the Cowen house from there.

Q. Did you see them?—A. I saw them raise up their guns that way [indicating].

Q. But did you not say that you retreated from the window before they fired?—A. I stepped back.

Q. You stepped back, but still you kept your eyes on them?—A. I stepped back, and just about the time I was getting back from where I could see them, they fired. Of course I could not tell whether they took direct aim at the Cowen house or not.

Q. Do you know whether they shot into the Cowen house or not at all from that side?—A. I do not know whether they did or not, but I judge they did.

Q. You simply heard some guns out there?—A. I saw them take aim at the Cowen house—take aim that way.

Q. Now, after they left you went into Judge Parks's room?—A. I opened the door and stood in the room.

Q. Where did you find him?—A. I found him standing up in his room.

Q. How long did he continue to occupy that room after this firing?—A. It must have been about two weeks.

Q. He fell out of that room, did he, later, and lost his life?—A. Yes, sir.

Q. Were you there at that time?—A. Yes, sir.

Q. Do you know how he came to fall out?—A. No, sir.

Q. Was anyone else in the room with him at the time he fell out?—A. No, sir; not that I know of.

Q. You never heard that there was?—A. No, sir.

Q. You do not know anything about that?—A. No, sir; I do not know a thing about it.

Q. You never heard any suggestion that there was anybody in the room with him when he fell out?—A. It is not known whether there was anyone in the room with him or not.

Q. What time was it he fell out, day or night?—A. It was night; he was found about 3 o'clock.

Q. In the morning?—A. In the morning; he was found there.

Q. Who found him?—A. I think a policeman.

Q. Which policeman?—A. I do not know.

Q. You knew nothing about it until the following morning?—A. I knew it as soon as they found him.

Q. How did you happen to learn it as soon as they found him?—A. Mayor Combe and a party came into my room.

Q. Why did they come to your room?—A. To see if I knew anything about it.

Q. They awakened you?—A. Yes, sir.

Q. And told you about it?—A. Yes, sir.

Q. What did you tell them?—A. I did not know a thing about it.

Q. Where was the body?—A. Lying out on the sidewalk.

Q. On the sidewalk?—A. Yes, sir.

Q. It had not been moved?—A. It had not been moved, and it was not moved for an hour or two later.

Q. Did you go down and look at him?—A. No, sir; I could see from my window.

Q. Who took charge of him?—A. I do not know: nobody in particular took charge of him.

Q. He was just lying there, nobody watching him?—A. Yes, sir; there was somebody there.

Q. You went into his room and looked out of his window that night? That was a little nearer to Elizabeth street than yours?—A. About 6 or 8 feet nearer.

Q. From that window you could see by the Cowen house and see B barracks?—A. From my own window.

Q. From your own window you could see from the end of the gate up to about the middle of the barracks, could you?—A. I don't know. I could see a portion of it, but I don't know how much.

Q. You stated a while ago that you could see as far up the barracks as the middle. Do you mean from your own window you could see that, or from Judge Parks's window?—A. I meant I could see the middle of those two posts, but not that end.

Q. Are you sure about that?—A. I am not sure I could see that end of the barracks that night, but I am sure I could see about 20 feet of this end of the barracks.

Q. Do you know the Western Union telegraph office on the corner there?—A. Yes, sir.

Q. That is a two-story building?—A. Yes, sir.

Q. Would not that be directly in the line of your vision looking towards that end of B barracks, next to the gate?—A. It might knock off the view of this end [indicating].

Q. Is there not another house fronting on Elizabeth street and extending back to the Cowen house?—A. There is a house here [indicating].

Q. What kind of a house is that?—A. One similar to the Cowen house.

Q. A one-story house?—A. Yes, sir.

Q. A dwelling house?—A. Yes, sir.

Q. Who lives in that?—A. That is a part of the hotel.

Q. A part of the Leahy Hotel?—A. Yes, sir.

Q. And that was one story, also?—A. Yes, sir.

Q. And how near is the rear of that annex to the Cowen house?—A. It is just about like the Cowen house. It goes back just about that far, I suppose [indicating].

Q. So that there is a space of perhaps 20 feet from the Cowen house?—A. Yes, sir.

Q. So that if you saw B barracks that night, or if you can see B barracks at any time, it is by looking through between the Cowen house and the annex to the Leahy Hotel, and that would throw your line of vision to about the center of B barracks?—A. Yes, sir.

Q. You could not see either end?—A. You could see the end this way; yes, sir.

Q. You did not see anything of Judge Parks until after the bunch of men had disappeared around the corner?—A. I stepped in there, and he was standing by his window.

Q. And by that time there had been ten or fifteen shots fired at the mouth of the alley?—A. Yes, sir.

Q. And there had been ten or fifteen shots fired by the men you saw standing near Fourteenth street?—A. Yes, sir.

Q. And that would make twenty or thirty shots?—A. They fired

eight shots apiece, about sixteen shots, and then the first shots, I do not know how many, just scattering shots, I should say fifteen in number.

Q. There had been thirty or forty shots fired, and then they had gone up the alley?—A. Yes, sir.

Q. And you heard them firing up somewhere towards the Miller Hotel?—A. Yes, sir.

Q. While you were in Judge Parks's room?—A. While I was in my room.

Q. What I am trying to find out now is, what was going on when you went in his room?—A. When I went to his room he was standing near his window looking at the barracks, and he called me and told me that they were shooting from the barracks.

Q. He told you they were shooting from the barracks, and you saw what?—A. I saw them shoot two or three times.

Q. Three times, was it not? You have told us three times.—A. I would not say any certain number.

Q. You saw three or four shots, you say?—A. Yes, sir; two or three—three or four.

Q. You have testified repeatedly?—A. Yes, sir.

Q. Before the citizens' committee?—A. Yes, sir.

Q. And before the court-martial?—A. Yes, sir.

Q. Did you testify before Mr. Purdy also?—A. Yes, sir.

Q. And have you not told, as often as you testified, that you saw two or three shots fired?—A. Yes, sir.

Q. Apparently from the barracks?—A. From Judge Parks's window, and then I went back to my window and saw one or two or three shots fired after that.

Q. After that?—A. Yes, sir.

Q. So that you saw five or six shots fired from B barracks?—A. I did not say that I saw from my window five or six shots, but I saw two or three shots, and they must have been from B barracks.

Q. Are you not confusing things a little? Did you see two or three shots fired from Judge Parks's room, and then go back to your own room later still and see two or three more shots fired from the barracks?—A. I went back to my own room and was standing about the center of the room, dressing, when I saw two or three more shots.

Q. Fired from the barracks?—A. Yes; I saw somebody go and get a lantern off of the barracks, and it must have been lit, because I do not think he took time to light it, and he ran back towards the stairway with it.

Q. Did you see any lights in the barracks at all when you first looked out from Judge Parks's window?—A. No, sir.

Q. All still, and all quiet. Did you hear a bugle call that night?—A. I heard several; yes, sir.

Q. When did you hear the first one?—A. Just directly after the first shot.

Q. Directly after you saw the first men come up and fire into the Cowen house?—A. Yes, sir.

Q. Immediately after those first shots down by the Cowen house you say you heard a bugle call?—A. Yes, sir.

Q. And then was there not immediately a great deal of noise over

in the barracks?—A. Yes, sir; I heard a noise that sounded like a wagon or a cart.

Q. Where did that seem to be?—A. It seemed to be about the middle portion of B barracks, right along here, somewhere; maybe here [indicating]. I could not judge.

Q. You could not tell. You could not see the wagon?—A. I could not see it.

Q. You were looking out in that direction, and that would be that way [indicating]?—A. Yes, sir; it would be that way [indicating].

Q. And it was pretty dark, and you could not see that far?—A. No, sir.

Q. Did you know what it was that made that noise?—A. No, sir; I did not know what it was.

Q. Did it sound like an iron bed on a wagon making that noise?—A. It sounded more like a loaded cart.

Q. It sounded so that you could hear it all the way down there in the Leahy Hotel?—A. It rattled enough so that I took it to be the fire department down there.

Q. You thought it was the fire department?—A. Yes, sir; because they have a station along somewhere here [indicating].

Q. Whatever it was, you located it about B barracks?—A. Yes, sir; about B barracks.

Q. But you would not pretend to say whether it was at the east or the west end of the barracks?—A. I would say that it was nearer the east than it was the west.

Q. That is the way it sounded to you?—A. Yes, sir.

Q. After you heard the bugle calls, then what happened? Was that before these two men came down and did the firing?—A. Yes, sir.

Q. And that was before the bunch of men came around that corner?—A. Yes, sir.

Q. And you heard a second bugle call before they came around the corner?—A. Just after the first they blew a second.

Q. Where was the first sounded?—A. It sounded about here, at B barracks.

Q. Did you hear a bugle call out at the guardhouse?—A. No, sir; I did not hear that.

Q. If the bugle was sounded the first time at the guardhouses, you did not hear it?—A. I did not pay any attention to it if I did.

Q. Could you have been mistaken as to where it was located?—A. No, sir; I could not; because I had heard bugle calls day and night down there.

Q. And you are very familiar with them?—A. And every night I could hear taps.

Q. So that you are positive it was at B barracks where the first bugle call was?—A. In the neighborhood of B barracks or C barracks.

Q. And that was immediately after the first firing at the mouth of the alley?—A. Yes, sir.

Q. And it could not have been at the guardhouse?—A. The one I heard could not have been.

Q. Where was the next one you heard?—A. I saw four or five men

running back towards the garrison, about ten or fifteen minutes later, I took it to be.

Q. Ten or fifteen minutes later you heard the second bugle call?—A. Yes, sir; and it was in that neighborhood, too. I think it was right in here, back here somewhere [indicating].

Q. Now, you had not heard any bugle call—A. In between?

Q. None in between?—A. No, sir.

Q. Then you heard a third call. When was that?—A. That was the third call.

Q. That was the third call. When was the second?—A. The second call was immediately after the first.

Q. Immediately after the first?—A. Yes, sir; it was a call that I had never heard before.

Q. Did you hear any rolls called that night?—A. Yes, sir; I heard. I could not distinguish what they were saying, I could not understand what they were saying or anything like that, but I heard the voices.

Q. Where were they?—A. They were along here, back of B barracks, on the parade ground, at the side of the barracks.

Q. On the parade ground at the side of the barracks?—A. Yes, sir.

Q. You heard the roll being called there?—A. Yes, sir; I heard the voices here.

Q. Did you hear a call of the roll behind the wall below the gate, towards the river?—A. No, sir; I heard only one, and that was right on the parade ground, in front of B barracks.

Q. When the firing was all through, you went with Judge Parks to the Tillman saloon?—A. Yes, sir.

Q. To look after Mr. Cowen?—A. Yes, sir.

Q. Judge Parks knew Mr. Cowen?—A. Yes; he did.

Q. Did you find him?—A. Yes, sir; it must have been nearly an hour later.

Q. Were you with him when he found him?—A. No, sir.

Q. Did you hear Mr. Cowen say where he had been?—A. Yes, sir.

Q. Where did he say he had been?—A. Just before the shooting he said that he went out to one of the saloons.

Q. To which of the saloons did he go?—A. I don't know.

Q. To whom did he make that report?—A. He was telling it at the hotel, just after the shooting.

Q. Was it Tillman's or Crixell's saloon?—A. I do not know; it must have been Crixell's. It was not Tillman's.

Q. What was he doing when the firing commenced?—A. I don't know.

Q. Did he say he was in that saloon when the firing commenced?—A. He was not in Tillman's; I think I remember hearing him say that he was in Crixell's, or I heard somebody say he was.

Q. He heard the firing?—A. I do not know what he heard.

Q. Did you hear him say?—A. I did not pay any attention to what he said, because I believed him to be nearly drunk.

Q. Nearly drunk?—A. I believed him to be pretty full, that is the word.

Q. When was this?—A. It was about an hour after the shooting.

Q. Was that before D Company had gone out into the town?—A. That was afterwards, I believe.

Q. Can you tell—did you hear him say, or hear anybody else say, what time he left his house that night?—A. No, sir; if I heard him say, I did not pay any attention to it.

Q. Did you hear him tell what he was doing when the firing was going on?—A. I heard him tell, but I do not remember that.

Q. You do not remember that?—A. I did not pay any attention to it.

Q. Did you hear anybody ask him why he did not go home when the firing seemed to be right at his house?—A. I believe Judge Parks did, but I do not remember the answer.

Q. That did not impress you? He was drunk?—A. He was drunk.

Q. What had he been drinking?—A. I do not know, but after he came to the hotel he had a sandwich in his bosom, and when the shooting commenced he said that he put it in there, and he had a bottle of beer, and I know for certain that he had a bottle of whisky.

Q. Do you know for sure that he had a bottle of whisky?—A. Yes, sir.

Q. How big was it?—A. A 50-cent size.

Q. That would be a pint?—A. Yes, sir; a pint. Or it might have been a smaller size.

Q. How much was there of that?—A. He had not opened it there. He opened it at the hotel; he and his wife.

Q. How long was that afterwards?—A. After the patrol had gone back.

Q. This was at the Leahy Hotel that he opened it?—A. Yes, sir.

Q. Then did he have a bottle of beer, too?—A. Yes, sir; or it may have been two bottles. I did not pay much attention.

Q. Was he carrying this on his person?—A. Yes, sir; he brought it from the saloon.

Q. It looked like he was fixed up for the night?—A. It looked that way.

Q. Just where did Judge Parks find him?—A. I don't know where he found him.

Q. Did you hear his wife ask him why he did not come home when he heard the firing?—A. I did not pay much attention to it if she did.

Q. Did you hear Miss Cowen or Mrs. Cowen or anybody else speak about what Mr. Cowen was doing that evening?—A. No, sir.

Q. Or during the afternoon?—A. If I did, I did not pay any attention to it.

Q. Did you hear him say anything about replenishing his ammunition in the afternoon?—A. No, sir.

Q. Do you know whether he had a gun or not?—A. After he came to the hotel he went over to his residence and got a Winchester gun.

Q. Out of his residence?—A. Yes, sir.

Q. What did he do with that?—A. He brought it back over to the hotel and then he sat up around there for an hour or so more after the rest of the people there at the hotel had gone back to bed. Well, he sat out in front of the doorway to a little building that is right in front here of Mrs. Leahy's [indicating on map].

Q. That is in the rear of the hotel?—A. Yes, sir.

Q. He sat out there?—A. Yes, sir; he sat out at the door there in a chair and slept that way.

Q. All the rest of the night?—A. Yes, sir.

Q. He did not go home that night?—A. No, sir; none of them went home.

Q. Did you hear him talk about the negro soldiers?—A. Everybody was talking about them.

Q. Did he talk about them, is what I am asking?—A. He talked about them, but I do not know what it was.

Q. What kind of a remark was it that he made, anything bad against them?—A. It was not so bad.

Q. What did he go and get the gun for?—A. He was afraid of another outbreak.

Q. Did he have arms with him when you found him at the hotel?—A. I did not find him. Judge Parks found him.

Q. Did he look as if he had been out, marching around the town?—A. I do not know that he did.

Q. How was he dressed?—A. I do not remember.

Q. Can you not tell me how he was dressed?—A. I do not think that he had on a coat.

Q. No. He was in his shirt sleeves?—A. Yes, sir.

Q. You saw him in the light, too, did you not?—A. Yes, sir; I was right up at him.

Q. You were right up to him, and you did not look at him to see how he was dressed?—A. I saw how he was dressed, but I did not pay any attention to how he was dressed.

Q. Do you know whether he had on a hat or cap that night?—A. I think he had on a hat, but it was of no importance, and I did not pay any attention to it.

Q. It was of no importance how he was dressed? It was of no importance how any citizen was dressed?—A. If he had been dressed anyway peculiar, I would have noticed it.

Q. How did you happen to pay particular attention to how the soldiers were dressed?—A. They were dressed in uniform.

Q. You just glanced at them?—A. Yes, sir; I had more than a glance at them.

Q. They were 60 feet away?—A. I do not know how far away they were.

Q. They were the distance away from you from your window to the corner of the alley?—A. When they ran across here, about the middle of the street, that put them a great deal nearer at that time, there, anyway.

Q. How much nearer did it put them?—A. Fully 15 feet, I should say.

Q. Fully 15 feet. So that if they were 60 feet away when they were standing over here, firing, you think they were only 45 feet away there, and you could see them?—A. Yes, sir.

Q. They were running?—A. Yes, sir.

Q. It did not take long for them to pass out of sight?—A. They were running slowly.

Q. Tell us how they were dressed.—A. One of them was dressed with leggings and the khaki pants and a blue shirt, and he was a black negro.

Q. A black negro?—A. Yes, sir.

Q. A very black negro; and he had on leggings and khaki pants and a blue shirt?—A. Yes; and he had on one of those belts.

Q. A belt; and a gun in his hand?—A. Yes, sir.

Q. And now tell us about the other.—A. The other one was dressed the same way, although I am not sure but that he had on a coat.

Q. Tell us about the leggings.—A. He had on the leggings.

Q. Both of them had on the leggings?—A. Yes, sir.

Q. You are positive of that?—A. Yes, sir.

Q. You noticed that?—A. Yes, sir.

Q. And you can not be mistaken about that?—A. No, sir.

Q. There was no lamp there at all?—A. No, sir.

Q. The nearest lamp was at the Elizabeth street corner?—A. Yes, sir; but those lamps that they had there, if they had had a dozen around you could not have seen any better.

Q. Why?—A. They did not make any light.

Q. They did not make any light?—A. No, sir.

Q. How much candlepower are they?—A. I don't know, sir.

Q. What is the trouble with them, that they do not make any light?—A. I do not know. If a man was standing under the post on a dark night, you could not tell who he was.

Q. These lamps are all the same kind, are they?—A. Yes, sir.

Q. You have noticed that frequently, that a man would be standing right under the light?—A. Not frequently.

Q. But you have noticed it enough to know that you could not recognize him?—A. On a dark night the light would show better than on a night partly dark.

Q. But a man would have to stand right under it for you to see who he was?—A. If he would stand out a few feet, you might tell.

Q. If he stood right under it, you could not tell?—A. No, sir.

Q. How far from that post would that lamp throw a light, a ray of light that would illuminate the neighborhood?—A. Not very far.

Q. Eight or ten feet?—A. I do not know; I never noticed it.

Q. But very little?—A. Very little.

Q. So that you think these street lamps, one at Elizabeth street and another on Fourteenth street and Washington, 240 or 250 feet away—260 feet apart—would not help much in seeing anything?—A. I do not think they would help one bit.

Q. They would not help a bit, and your judgment would be the same as to all the lamps?—A. No; I don't know.

Q. I mean they are all the same candlepower?—A. I suppose so. Some might burn better than others. They are oil lamps.

Q. They just have a small wick?—A. I don't know; I believe they have.

Q. Do you know the kind of lamps they have over the gate?—A. No, sir; I believe they have one on each side of the gate; they are oil lamps, too.

Q. You never noticed them especially?—A. No, sir.

Q. Are those lamps over the big gate or over the small gate?—A. They are over the small gate, the best I remember. I do not know. I never paid any attention to them.

Q. Look at that picture, which is supposed to represent the gate [handing witness photograph]. Is that a picture of the gate. I call your attention to picture number 5 in part 2 of Senate Document 155. Is that a picture of that gate?—A. Yes, sir.

Q. There are no lamps over the big gate, are there, according to that picture?—A. No, sir.

Q. Is that the small gate [indicating]?—A. That is the small gate.
Q. How far from it?—A. I do not know how far it is.
Q. Do you see any lamps there?—A. No, sir.
Q. What does that seem to be, an arch [indicating on photograph]?—A. Yes, sir. I do not know whether there is any light or not.

Q. Did you see any policeman that night?—A. Yes, sir.
Q. Whom did you see?—A. I do not remember their names.
Q. How many did you see?—A. I saw two; I saw some uptown.
Q. Where did you see those two?—A. Those two came to the hotel just about the time the firing commenced by the main squad; or, I do not know just when they came, but they came during the firing.

Q. During the firing?—A. Yes, sir.
Q. You did not see them when they came, did you?—A. No, sir.
Q. You were upstairs at the window watching the soldiers?—A. I did not see them.

Q. Did these men enter the hotel from the Elizabeth street side?—A. They must have.

Q. Well, did you see them at all?—A. Not until I went after them to take them out of the bathroom.

Q. When did you go after them?—A. About an hour and a half later.

Q. Where did you find them?—A. In the bathroom, where Mrs. Leahy told them to go.

Q. What were they doing there?—A. They were hiding.
Q. What were they hiding in there for when there was trouble outside?—A. Well—

Q. Were they afraid?—A. They surely were.
Q. Did they seem to be still alarmed?—A. Well, when we went after them they would not come out.

Q. They would not come out?—A. And there was a policeman who came down with Judge Parks, somebody, I believe the chief of police, I do not know who it was, but he stood out in front on Elizabeth street, and Judge Parks went back there and told them to come out, that the shooting was all over, and they would not come out. They would not make it known they were there. They would not act like they knew they were in there; they would not make any answer.

Q. They seemed not to want anybody to know that they were there?—A. No. And then Judge Parks went back and got another policeman, and the policeman went back there and got them out.

Q. You said something about the chief of police. Did you mean Mr. Connor?—A. It was the chief of police, I believe.

Q. What excuse did they give for staying in there while all this trouble was going on?—A. They said if they had not gotten in there, they would have been killed.

Q. If they had gone out that they would have been killed?—A. Yes, sir; that the soldiers were chasing the police.

Q. That the soldiers were chasing the police?—A. Yes, sir.
Q. I want to get it as near as you can give it, just what they said; that they went into the hotel because the soldiers were chasing them?—A. The soldiers were running them. They were passing the hotel, and jumped over the paling or something there, and the soldiers could not see where they went.

Q. So that the soldiers could not see where they went?—A. Yes, sir.

Q. Did they tell where the soldiers started to run after them?—A. If they did, I do not remember it.

Q. Were they armed?—A. Yes, sir; they had their guns—their pistols.

Q. Did you hear those soldiers, those that you saw, making any inquiry about a couple of policemen?—A. No, sir.

Q. Did they seem to be looking for somebody?—A. They did not; not that I paid any attention to.

Q. When did you first learn that these two policemen were shut up in hiding in this house?—A. The last time I went down, and the Cowen family were brought over.

Q. After it was all over?—A. Yes, sir; but they were put in, I was told.

Q. Who told you?—A. Mrs. Leahy.

Q. What did she tell you as to when they came?—A. I do not remember just when, but they came during the firing there at the Cowen house.

Q. They came just after the firing commenced, did they not?—A. Just after or just before; during that time.

Q. Just about that time?—A. Yes; I don't know just what time it was.

Q. Did she say they were very much excited and frightened?—A. I don't know; she didn't say.

Q. She told you that they jumped over the fence and ran into the house?—A. Yes, sir.

Q. And she told you that they told her that the soldiers were chasing them?—A. No, sir; I heard them say that themselves.

Q. You heard them say that?—A. Some of the crowd, after they were gotten out.

Q. Did they tell where the soldiers started after them?—A. No, sir; they might have told it, but I did not pay any attention.

Q. Did they tell why the soldiers started after them?—A. No, sir.

Q. Did they say anything about having used their own pistols, firing on soldiers?—A. I don't know; I didn't hear it.

Q. Did you look at their pistols?—A. No, sir.

Q. You do not know whether any shots had been fired out of them or not?—A. I do not know a thing about it.

Q. Did they finally go away with this officer?—A. They went away; yes, sir.

Q. They seemed to be over their fright?—A. They didn't seem frightened much. They just asked for protection.

Q. They asked protection?—A. Asked protection, I reckon.

Q. That is, from Mrs. Leahy?—A. Yes, sir.

Q. They wanted protection from her instead of giving protection to her?—A. Yes, sir; and somebody there made the remark that we ought to run them out.

Q. Ought to run them out of town?—A. Mrs. Leahy said no; let them stay; if there was any more trouble we could get their guns.

Q. You could get their guns?—A. Yes, sir.

Q. Was there any more trouble?—A. No, sir.

Q. Did they surrender their guns to her?—A. Well, they would have.

Q. Are they still on the police force?—A. I think not. One of them was a young fellow, a new man on the force, I think.

Q. What was his name?—A. I do not know.

Q. You think that he is discharged?—A. Yes, sir; I think so. Then, the other one—I do not know which one it was—whether he is one of the force or not.

Q. How were they dressed?—A. I do not know, but I think in their khaki.

Q. Their khaki uniforms?—A. Yes, sir.

Q. All the policemen at that time, in August, were wearing the khaki uniforms?—A. They were wearing two different kinds.

Q. At that particular time they were wearing the khaki, were they not?—A. I believe they were.

Q. And these two men had on the khaki?—A. Yes, sir.

By Senator OVERMAN:

Q. Did they have the leggings on?—A. No, sir.

By Senator FORAKER:

Q. They did not wear leggings?—A. No, sir; their uniform is not tight fitting; it is big, and you would hardly take it to be a khaki uniform. It is a darker color than the soldiers wear.

Q. If you were to see them 100 feet away on a dark night you would have difficulty in telling which they were, soldiers or policemen?—A. What is that question?

Q. I say if you were to see policemen 100 feet away you could not tell the difference between their uniforms and soldiers uniforms in the nighttime, could you, on a dark night?—A. I could tell by the difference in the uniform. These policemen are short and heavy set, and I could tell by the difference in the cut of the clothing.

Q. Are they all small men?—A. Well, nearly all of them are heavy set that I know of.

Q. Are not some of them of pretty good height, also?—A. Not that I know of.

Q. Do you know Fernandez?—A. I know Fernandez.

Q. He is pretty tall, is he not?—A. He is pretty tall, but he is pretty big with it.

Q. These soldiers were pretty good-sized men, too, were they not?—A. They are not fat.

Q. They are not fat?—A. They are rather well-built or slender men.

Q. How tall are they?—A. Well, I judge that the majority of them are not over 6 feet.

Q. Not over 6 feet?—A. Not over 6 feet tall.

Q. Did you see any soldiers that night that were 6 feet?—A. No, sir.

Q. How tall were the soldiers you saw?—A. They looked to be about 5 feet 7 inches.

Q. Rather small men, were they not?—A. Rather small.

Q. That is below the medium stature, is it not?—A. Yes, sir; I believe it is.

Q. And they were all of light weight?—A. Yes, sir.

By Senator OVERMAN :

Q. You say the soldiers' khaki uniform is tight fitting and that of the policemen is loose?—A. Yes, sir.

Q. And that it is easy to distinguish between them?—A. Yes, sir; and it is a different thing altogether.

By Senator FORAKER :

Q. Where did you see the second series of shots at the barracks? You saw first two or three shots from Judge Parks's window, at the barracks, and then where did you see the second series of two or three shots at the barracks?—A. From my window.

Q. That was some time after the bugle call?—A. Yes, sir; after the second bugle call I heard.

Q. Two bugle calls that you heard had sounded some time before that?—A. Yes, sir.

Q. And at that time, when you returned to your room, you saw, looking out of your window, two or three shots fired up here about B barracks?—A. Either B or C.

Q. Either B or C?—A. I don't hardly think it was C, although it might have been. I could see the corner over the roof, one part, and I think it must have been there.

Q. At that time the two men and the bunch of men had gone up the alley?—A. Yes, sir.

Q. They were all up near the Miller Hotel and the saloon?—A. Yes, sir.

Q. They were all up there?—A. Yes, sir; I heard shots up there.

Q. Did you hear shots up by the Miller Hotel before you heard these first two shots?—A. I heard shots just before or just afterwards, I don't remember which.

Q. Could you tell just where those shots were located?—A. The shots up there?

Q. Yes.—A. From Judge Parks's room they were along here, at B barracks.

Q. Were they from the ground?—A. From the second gallery.

Q. How could you tell they were from the second gallery?—A. Because I could see.

Q. Could you see the second gallery?—A. I could tell they were elevated. I could see the point of the building.

Q. Were the shots elevated that were fired?—A. The men were. The shots were fired about a level [indicating].

Q. And you saw men running around with a lantern at that time?—A. That was when I went back to my room. This man ran up that way [indicating].

Q. Did you see any men go out of the barracks and go down the alley, or go down Elizabeth street, or go down any other street towards the town, after you heard those shots?—A. No, sir.

Q. You did not see anything of that kind?—A. No, sir.

Q. And you think you can not be mistaken, now, as to just where those shots were fired from?—A. From Judge Parks's room, I am certain they were fired from B barracks.

Q. From your own window?—A. From my own window I could

see two different parts of the barracks, but I never have looked it up to see just where it was there.

Q. Could you from your own room see C Company barracks?—
A. I think not.

Q. You could see over the Cowen house, could you not?—A. I could look over the roof.

Q. Is not your second story as high as the Cowen house?—A. The second story is rather low.

Q. You were standing up. How high is your second floor from the ground?—A. It must be about 12 feet; maybe lower.

Q. And you can not tell whether those guns were elevated when they were fired?—A. They were not elevated up in the sky, but I could tell that the shots were elevated.

Q. Did you see these shots before or after you heard the wagon?—
A. After I heard the wagon. I heard the wagon when the first shots were fired.

Senator FORAKER. I believe that is all.

(Witness excused.)

(At 12.20 o'clock the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The committee met, pursuant to the taking of recess, at 2 o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

Senator FORAKER. Before we call our first witness this afternoon, I want to put in evidence what is found on page xix of part 2 of Senate Document 155.

Senator Foraker here read aloud the letter referred to, which is as follows:

LETTER OF THE SECRETARY OF WAR TO THE PRESIDENT RELATIVE TO ADDITIONAL
TESTIMONY IN THE BROWNSVILLE CASE.

WAR DEPARTMENT,
Washington, January 14, 1907.

MY DEAR MR. PRESIDENT:

In my letter transmitting the additional evidence in the Brownsville case, I had occasion to comment on the circumstances which impaired the weight to be given to the evidence of Paulino Preciado, in which he stated that he saw the four or five men who killed the barkeeper, and recognized them as negro soldiers, admitting on examination that he had not made such a statement before, explaining it by saying that he was not asked. Since sending you the evidence and my letter of transmittal I have come across what purports to be, and what I believe to be, a copy of a report of Preciado's evidence before the grand jury, which expressly contradicts and impeaches his evidence upon this point. I ask that this be forwarded to the Senate with your message and the other papers.

Very respectfully,

WM. H. TAFT,
Secretary of War.

The PRESIDENT.

Senator FORAKER. Now, immediately following this is what I understand to have been the testimony, given before the grand jury, of Paulino S. Preciado.

Senator Foraker read aloud the document referred to, which is as follows:

GRAND JURY ROOM, *September 10, 1906.*

PAULINO PRECIADO, being duly sworn, deposes and says:

I live in Brownsville, Texas; on the night of the shooting I was in the Ruby saloon, belonging to Mr. Tillman, near midnight. We, myself, Antonio Torres, Nicolas Sanchez Alanis, and Mr. Tillman, were sitting in the yard, when we heard some shots. Tillman got up at once and left us. We remained with the bartender, Frank Natus; the latter closed the doors toward the street; in the meantime the shooting became heavier. Then the bartender went to close the door towards the alley. He went about twenty feet towards the door, when a volley was fired. Natus exclaimed, "Ay Dios," and fell down; I saw him because I was looking in that direction when the shots were fired. I saw I was in danger and went to one side. I could not see anybody in the alley, as it was dark out there and I was in the light. I heard no word spoken. I hid in a corner where a brick wall protected me until the shooting was over, then I went to close the alley gate. While I was in the corner I received a slight flesh wound on the left hand, and another passed through my coat and vest, breaking my spectacles, which I carried in the left breast pocket of my coat, but did not hurt me. I think I received the shots at the time Frank Natus fell, but did not notice it at the time. When the shooting was over I went and opened the front door and asked the crowd of people who were there if there was an officer amongst them. Mr. Victoriano Fernandez came forward, and I told him what had happened.

(Signed)

PAULINO S. PRECIADO.

Sworn to and subscribed before me this 10th day of September, 1906.

WM. VOLZ,

Foreman Grand Jury.

Senator WARNER. I have no objection to that at all.

Senator FORAKER. I understand that attention was called to that yesterday. I may perhaps want to refer to it again, but not now.

Senator WARNER. Following the testimony of the last witness, I desire to have put in the record the sworn testimony of Mrs. Eleanor Parks, as found on pages 48 and 49 of this same volume, part 2 of Senate Document 155, which contains a letter of Judge Parks, who is dead, to Mrs. Parks. Judge Parks was in the Leahy Hotel in the room next to the witness who testified this morning.

(The testimony referred to is as follows:)

Mrs. ELEANOR PARKS was first duly sworn by Maj. A. P. Blocksom, and, upon being examined by Mr. Purdy, testified as follows:

Q. What is your full name?—A. Mrs. Eleanor Parks.

Q. Mrs. Parks, you live in the city of San Antonio?—A. Yes, sir.

Q. And your husband was Judge Parks, of Brownsville?—A. Yes, sir.

Q. How long is it since you, your husband, and family lived in Brownsville?—A. It has been four years last August.

Q. How long did you live in Brownsville before coming to San Antonio?—A. Six years.

Q. What was your husband's business?—A. A lawyer and attorney.

Q. And where did he practice law?—A. He practiced law, I might say, all over the State of Texas.

Q. And was engaged in the practice of law how long?—A. About twenty-five years.

Q. Was your husband, Judge Parks, in Brownsville on the night of the 13th of August, 1906?—A. Yes, sir.

Q. I presume he was there on professional business?—A. Yes, sir. He had just returned to Brownsville from San Antonio.

Q. Did you, Mrs. Parks, shortly after the shooting affray in Brownsville on the night of the 13th of August, 1906, receive a letter from your husband relative to that shooting?—A. Yes, sir.

Q. Is that the letter which you have just shown to me?—A. Yes, sir.

The letter is as follows :—

[Office of W. N. Parks, attorney at law. Federal equity practice a specialty. Practice in all courts, State and Federal.]

BROWNSVILLE, TEX., August 15, 1906.

DEAR MAMA: I did not write you yesterday, because there was no time to do so. The entire city was up in arms. I suppose you have seen in the papers what the negro soldiers did. Night before last between 11 p. m. and 12 the negroes came out of the garrison in great force and began a bombardment of the town. It was a terrible affair. They fired several hundred shots along the streets near the garrison line, into the houses and everywhere else, utterly regardless of the families in the houses; then they came on up the alley between Mrs. Louis Cowen's house and the Yturria place where we lived; between these two houses they halted and shot about a dozen or more shots through Louis Cowen's house, shattering the large mirror in her wardrobe, and also shot a chiffonier all to pieces in another room, and still in another room shot another wardrobe or piece of furniture to pieces, and even shot the lamp chimney off the lamp and put the lamp out, and many other shots were fired through the house. It was a miracle that the children and Mrs. Cowen were not killed; but while they were shooting near the garrison and coming up the alley, Mrs. Cowen hid the children under the beds, having them lay flat down, and she also crouched flat down on the floor; this is all that saved them.

I was in my room at the Leahy Hotel—the first room on the left as you go up the stairway—and from the window saw the whole thing, but could not tell they were shooting in the house, and I had no arms whatever to do anything with, and if I had done anything they would have stormed the hotel and killed everyone in it. They then marched on up the alley, shooting at everything in sight, until they got to the Miller Hotel, which they proceeded to bombard in great shape, shooting at every window where a light was visible. But I forgot to say that before they left the corner of Mrs. Cowen's place, they fired a couple of shots into the Leahy Hotel, but they did not go through the brick walls. At the bombardment of the Miller Hotel, the police attempted to attack them, but the brave and valiant (?) Brownsville police were put to flight in a very few seconds, and the lieutenant of police, Joseph Dominguez, the same man who was shot by Baker, the soldier I defended and cleared a couple of years ago, had his horse killed under him and his right hand shot all to pieces, and which necessitated amputation of the hand and part of the arm; then they went on up the alley, and in the old Jagou place, where a saloon is kept, they fired in from the alley and killed the barkeeper, a very good young man named Frank Natus; they proceeded around on Elizabeth street, and shot up all the houses; in another part of the town, around near old lady Sauder's store, in one of her neat cottages, where Fred. Starck lived, they fired eight shots through the bedrooms, but Mrs. Starck had had all of the children to lie down on the floor, and were thus saved. Many other residences were shot into, among them old man Rendall's, one shot passing just over him as he laid in bed. It was a fearful night, no one expecting such a thing, and no one being prepared to meet the occasion. When they got tired, they returned to the garrison. Yesterday we had a mass meeting of the people and some steps were taken to investigate the matter and arrange some sort of defense, but practically nothing was done.

I am of opinion that there is great danger of another and far worse outbreak. The negroes were mad because they were not allowed to drink at saloons beside the white people, several of them had been knocked over the head with pistols by some of the valiant (?) people for very trivial cause.

If another outbreak is made the results will be very serious indeed. Well, dear, there is nothing to write. So with much love and kisses for you and the children, I am,

Lovingly,

PAPA.

Q. Mrs. Parks, did you receive this letter a few days after the date which it bears, viz, the 15th of August?—A. Yes, sir; I think I have the envelope with the postmark.

Q. And you were here at your home in San Antonio at that time?—A. Yes, sir.

Q. Your husband is not living at the present time?—A. No, sir.

Q. How long after the 13th of August did he die?—A. He died on the 30th of August.

Q. Here in San Antonio?—A. No, sir; in Brownsville.

Q. Did you receive any other letters from your husband, Judge Parks, giving an account of what took place on that night?—A. Yes, sir; I received three very lengthy letters.

Q. What has become of those letters?—A. I destroyed them as I read them.

Q. And this is the only letter which you have from him since this occurrence at Brownsville on the 13th of August in which he gave you an account of what took place on that night?—A. Yes, sir.

Q. I notice that this letter is signed "Papa." Will you state whether or not that is the writing of your husband, Judge Parks?—A. Yes, sir.

Q. I presume, Mrs. Parks, that this being the last letter which you have from your husband you would like to have it returned to you at No. 101 Woodlawn avenue, San Antonio, Tex., when the Government has no longer any use for it?—A. Yes, sir.

Mrs. ELEANOR PARKS.

THE STATE OF TEXAS, County of Berar:

Mrs. Eleanor Parks, being first duly sworn, deposes and says that she has read the foregoing testimony by her subscribed, and that the same is true of her own knowledge, except as to those matters therein stated upon information and belief, and that as to those matters she believes them to be correct.

Mrs. ELEANOR PARKS.

Subscribed and sworn to before me this 6th day of January, 1907.

[SEAL.]

D. H. HART,

Clerk United States District Court, Western District of Texas.

By A. I. CAMPBELL,

Deputy.

TESTIMONY OF FRED E. STARCK.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Please give your name in full.—A. Fred E. Starck.

Q. What is your age?—A. I am 39 years old.

Q. Where do you live?—A. Brownsville, Tex.

Q. How long have you lived there?—A. I was born and have lived there all my life.

Q. Are you a married man?—A. Yes, sir.

Q. Of what does your family consist?—A. I have my wife and seven little children at home.

Q. Where is your home located; that is, your dwelling house, in Brownsville?—A. It is on Washington street, close to Thirteenth street.

Q. Between Thirteenth and Fourteenth or between Twelfth and Thirteenth?—A. Between Twelfth and Thirteenth.

Q. How far is your house from the home—the dwelling house—of Mr. Tate?—A. There is just a fence between our two lots; I presume about 14 feet—14 or 15 feet—between the two houses. The lots adjoin one another.

Q. Were you at your home on the night of the 13th of August?—A. I was, sir.

Q. Was your family there with you?—A. Yes, sir.

Q. How many were there of them then?—A. Six.

Q. You heard the shooting?—A. I did, sir.

Q. Were you asleep at the time it commenced?—A. Yes, sir; my wife and I were both asleep.

Q. You were awakened by it?—A. Yes, sir.

Q. Where was the shooting you first heard, Mr. Starck?—A. As near as I could judge, it sounded to me like it was towards the Miller Hotel, the first shooting.

Q. The Miller Hotel was what way from you?—A. It would be southwest from my home.

Q. That is, between you and the fort?—A. The post; yes, sir.

Q. The Miller Hotel is on the corner of Thirteenth and Elizabeth streets?—A. Yes, sir; on Elizabeth street, and on the corner of Thirteenth also; yes, sir.

Q. What was the character of that shooting?—A. Well, we heard some rapid firing, and while the firing was going on we heard a bugle blowing, and my wife said to me "Listen, I think there is fire in the post;" and she had hardly said those words when there was a volley fired right in front of my home, right in front on Washington street, a volley, and then one single shot like that, right the instant afterwards [indicating].

Q. From the report of that shooting, could you tell whether it was from high-power guns or not?—A. Yes, sir.

Q. Will you state how many of those shots; if any, entered your house?—A. Eight, sir.

Q. What was your house, one or two story?—A. Two story.

Q. Where was your family sleeping?—A. All on the lower floor. My wife and I were in the front room. We had two of the little babies in the front room, and the other children were in the room adjoining us, all on the south side of the house.

Q. And those shots that were fired—eight, you say—entered your house?—A. Eight bullets went into my house; yes, sir. I don't know how many shots were fired in the volley, but there were eight shots hit my house; yes, sir.

Q. Just state what part of your house, and the effect of them.—A. On the south side of my house there are five bullet holes, about 8 feet from the ground.

By Senator FRAZIER:

Q. You mean on the side fronting Washington street?—A. No, sir; on the side towards the post.

By Senator WARNER:

Q. They are on the side fronting the post?—A. That is, on the side fronting the south, because the front of the house faces west. The house has four windows on the south side, and every one of the four windows were wide open. It was in the summer time. Two bullets came through the third window in the house, and went through the mosquito bar over the bed that my two little girls were sleeping in, about 15 to 18 inches above their heads, and then the other bullet hole is almost in the front of the house.

Q. Where did that go, into the house, or through it?—A. Every bullet that went into the house went plumb through it.

Q. Inside of the house, there, where did you trace the bullets that went through it?—A. They go through the wall; and two bullets that went through the window only went through one wall. And they went out. I don't know where they went to after they went out of the wall. The direction they took would be towards Mr. John Fernandez's store.

Q. Did you afterwards, as best you could, attempt to determine, from the point of entrance and the point of exit of those bullets, the location of the parties who did the firing?—A. No, sir; not at that time.

Q. I mean afterwards.—A. Afterwards; yes, sir; the next morning.

Q. Where did you locate them?—A. I went out in our yard just after daylight, and went around looking at the house. I didn't know where the house had been struck up to the time I went out, and I went outside and looked and saw the bullet holes up in the wall, and then I came back in the room and began to look for the bullet holes in the room, and I saw the bullet holes in the room, and I had just about fixed the direction, and started to walk out of my front gate into Washington street when I saw the mayor of the city, Dr. Fred Combe, the city marshal, and a policeman named Felix Calderon. They were turning from Thirteenth street, coming from towards the Miller Hotel, and we met right beyond the brick fence that separates our house from the livery stable, and found, I think it was, nine empty shells strewn right in the middle of the street. Dr. Fred Combe picked up some and I picked up some, and all those I picked up I handed to Doctor Combe, with the exception of one. I retained that one. The next afternoon when I was down at the ferry landing the citizens' committee sent for me, and Captain Kelly, who was the chairman, asked me for the shell, and I gave it to him.

Q. Are you familiar with ammunition?—A. I am, sir.

Q. What kind of shells were those?—A. They looked to me like a Springfield rifle shell.

Q. How near was it to your house where you picked those up?—A. Right in the middle of the street. The street in front of my house is 60 feet wide, and they were right in the middle of the street.

Q. Was there any light in your house that night?—A. Yes, sir; we had what we call a night lamp. We always kept one in the little children's room. That was burning that night.

Q. In the room in which four of your children were sleeping?—A. Yes, sir.

Q. And you say your house was a matter of 15 or 16 or 17 feet from Mr. Tate's?—A. Yes, sir; about 15 feet. I have never measured it. Senator, but it is about 15 feet, I presume.

By Senator FRAZIER:

Q. Fifteen feet from whose house?—A. From Mr. Tate's house to mine.

By Senator WARNER:

Q. Now, what was your business in Brownsville on the 13th of August last?—A. Mounted inspector of customs, and have been for nine and a half years.

Q. Do you still occupy that position?—A. I do, sir.

Q. That is, mounted inspector of customs of the United States?—A. Of the United States: yes, sir. I have my badge on me now [exhibiting badge].

Q. That is, to look out for smuggling?—A. Smuggling from Mexico into the United States; yes, sir.

Q. How many ferries are there across the river at Brownsville?—A. From Matamoros to Brownsville, one, sir.

Q. In the discharge of your duties, were you there frequently?—A. Yes, sir.

Q. What portion of your time would you be at that ferry?—A. It all depended, Senator. You see, the mounted men do not do regular duty at the ferry. The only way we do duty at the ferry would be when one of the local inspectors, as we call them, would be sick or on leave of absence; or if a big crowd comes in or an excursion comes in, they would send one of our officers down there to the ferry. But our work is entirely mounted, doing scouting.

Q. Were you down at the ferry at any time when there was trouble with any of the colored soldiers?—A. No, sir; I was not.

Q. When those parties in front of your house did the shooting, could you tell what direction they went from that time?—A. When I jumped out of bed I heard the scurrying of feet. It sounded to me like it was running back towards Thirteenth street.

Q. That would be back towards the fort?—A. Yes, sir.

Q. Did you see the parties?—A. No, sir; I didn't. I saw no one.

Q. Why did you not go out, Mr. Starck?—A. Because my wife jumped out of bed, screaming, and I grabbed up our two little babies and ran through the other children's room and took my wife and the other children through the dining room and made them get behind a brick chimney in the kitchen. I then came back to the front room and got my gun and ran to the window and threw the blind wide open, and when I got there I couldn't see anyone.

Q. What kind of a gun did you have?—A. A Winchester, 30-30.

Q. What make of gun?—A. A Winchester, 30-30.

Q. That is, caliber .30?—A. Yes, sir.

Q. Did you ever have any trouble with any of the colored soldiers?—A. Never, sir; never had a particle of trouble with any of them.

Q. Had you heard of any trouble that Mr. Tate, your next-door neighbor, had?—A. Yes, sir. I heard that he had had some trouble; yes, sir.

Q. About the man on the sidewalk?—A. Yes, sir.

Q. When you went out, then, the shooting was over, practically?—Yes sir; it was over.

Q. Did you go down into the town that night?—A. No, sir; I started down in town, but my wife was in such a condition, and my little ones all crying, I couldn't leave them; I stayed home.

Q. Did you see anyone that night with reference to the firing?—A. No, sir; I only saw one man. It must have been ten or fifteen minutes after the firing. It was a policeman.

Q. The next morning you went down into the town?—A. Yes, sir; after daylight, when I found the cartridges. I had received orders that evening to go to the ferry to do duty there. The watches are from 6 to 2, 4 to 10, and 10 to 6 next morning. I had to go on duty at 6 that morning. I went in the house and got my hat and coat and went on down to duty at the ferry.

Q. Do you know of any reason why they should have singled out your house to shoot at?—A. None, unless they mistook it for Mr. Tate's. I can't tell why they should pick out my house. I never had any trouble with anybody. Both my name and Tate's was Fred, and both living there together, it might be that they mistook the house.

Q. You do not know that?—A. No, sir.

Q. You do not know of any reason?—A. I know of no reason.

Q. You had no trouble with them?—A. No, sir; I never had a particle of trouble with any of them. I met them every day, and never had a word of trouble with any of them.

Q. Were you up the rest of the night after that?—A. I was, sir. I stayed up all night. My wife and I were both up. I sat in the front window, there. I stayed there the biggest part of the night. The only time I would leave would be to go back there and see how my wife and children were getting on. They were all crying, and my wife was sick.

Q. From the character of the shooting you heard, did you form at the time an impression as to who was doing the shooting?—A. I supposed right away it must have been the soldiers from the post, on account of the sound of the rifle; it is a high-power rifle.

Q. But you did not see anyone?—A. No, sir; I saw no one at all. I couldn't tell. I saw no one at all. That is all I know.

By Senator FOSTER:

Q. You picked up those shells, you say, about what time in the morning?—A. A little after daylight, sir, as near as I can remember. Daylight then was about 5 o'clock.

Q. I wish you would explain to the committee, if you can, the condition of those shells—if they looked as though they were freshly shot.—A. Yes, sir; they were freshly shot; we examined them. Mayor Combe and the marshal and myself examined every shell we picked up. When the mayor got to my house he had a handful of shells, and one of the policemen had a handful of shells, and they had a bandoleer. I didn't see them when they got that. They told me they found it in the alley of the Miller Hotel. When I got there they had these in their hands. The mayor of the city, the marshal, and myself examined these shells, and they were new shells—had just been recently fired.

Q. How do you know they had been recently fired?—A. I have fired many a cartridge myself, sir, and can tell.

Q. The shells had a fresh appearance?—A. Yes, sir; you could tell by the primer; the primer had just been struck—that is, the cap. And I can tell a shell that has been recently fired and one that has laid over to get cold.

Q. And those shells there were recently fired?—A. Yes, sir.

Q. Were they all in a bunch, or were they scattered around?—A. No, sir. As near as I can remember, Senator, they were scattered in a distance of probably 10 or 20 feet; some this way and some that way; they were thrown. You had to walk along to pick them up. They weren't in a pile; they fell in different directions, you know.

Q. Were those shots which were fired into your house fired sufficiently low to kill a man or woman if they had been standing?—A. All that saved us was the brick wall between the stable and my house. It is about 6 feet high; and they had to shoot over that wall. If they had shot lower, from the direction of the shots, some of my children would have been killed. As I said, two went through the mosquito bar. If they had been 18 inches lower they would have killed my little girls.

Q. And all the shots passed through your house?—A. Every one of them, yes, sir; every shot that was fired went through the house; I found no bullets at all.

By Senator SCOTT:

Q. I believe you said you had a 30-30 Winchester?—A. Yes, sir.

Q. What is the difference between an empty shell of the 30-30 and the empty shell of a Springfield?—A. A great deal, Senator. The 30-30 shell is much smaller than either a Springfield or a Krag-Jørgensen shell; the caliber is much smaller. The Krag is a 30-40 and has more powder, and the shell is a larger shell, both in length and in diameter.

Q. What is the difference between the Krag, then, and the Springfield shell?—A. There is this difference: The Krag shell has no groove at the bottom, and the Springfield shell is supposed to be fired in a clip, and they all have a little groove close to the bottom, and these shells I picked up all had a little groove.

By Senator FOSTER:

Q. The shells, then, you picked up all had a groove, and were the same shells as are used in the Springfield?—A. As I have seen used in the Springfield; yes, sir.

By Senator SCOTT:

Q. Could the Springfield ammunition be shot out of a Krag or out of a 30-30?—A. I don't know about a Krag, but it couldn't be shot out of a 30-30, because it would be too large. I wouldn't say whether it could be fired out of a Krag, because I never tried it. But it is too large a cartridge to go into a 30-30.

By Senator FORAKER:

Q. Do you not mean by 30-30 that it is .30 caliber?—A. Yes, sir.

Q. Is not .30 caliber the same the world over, no matter what kind of a bullet is shot out of it?—A. The bullet is, but the shell is not.

Q. What is the difference between the shell of the 30-30 and the shell of the Krag?—A. As I told you, it is a smaller shell, sir.

Q. You mean has less grains of powder in it?—A. Yes, sir.

Q. Does "30-30" mean .30 caliber and 30 grains of powder?—A. Yes, sir.

Q. While in the Springfield they have 42 grains?—A. I don't know about the Springfield.

Q. In the Krag, then?—A. In the Krag they call them 30-40. I presume it is .30 caliber and 40 grains of powder.

Q. Then the second "30" has reference to the number of grains?—A. Yes, sir.

Q. Then the "30" or "40" has reference to the number of grains?—A. Yes, sir.

Q. But the bullets are the same size?—A. The same size; yes, sir.

Q. And the shells are the same in diameter?—A. No, sir.

Q. Not quite so long?—A. No, sir; they are not the same in diameter, Senator.

Q. Are they longer?—A. You take a 30-30 shell. I don't know what the difference is, but it is a smaller cartridge than a Krag. You take a Krag cartridge and you couldn't begin to get it in a 30-30 rifle, and you take a 30-30 cartridge, and it will go into a Krag, and fit loose.

Q. Could it be fired?—A. I don't know; I never tried it.

Q. If it goes in, it could be fired, could it not?—A. I don't know; it fits loose.

Q. We will get to that later. You are a customs officer?—A. Yes, sir.

Q. And mounted?—A. Yes, sir.

Q. How many customs officers do you have there?—A. We have eight stationed in Brownsville.

Q. How many are on duty at a time?—A. We are supposed to be on duty all the time.

Q. All eight of you?—A. Yes, sir.

Q. Night and day?—A. Some in the night and some in the day.

Q. You relieve each other, do you not?—A. No, sir; we don't relieve each other. It all depends on how we are working. Some of us may be out on a scout, and some on duty in the town.

Q. What do you mean by being out on duty on a scout?—A. Patrolling the river. We have to patrol the river.

Q. How far do you patrol the river there?—A. It all depends on our orders. I have patrolled the river for 100 miles, in the three counties, Cameron, Starr, and Hidalgo. That is our regular beat. Suppose I receive information that there is some smuggled stock or something coming over from Mexico. We have to start out and catch it if we can.

Q. Is there much of that smuggling going on?—A. Not so much now as there was formerly. For example, when I first went in the service there was considerable.

Q. That was nine years ago?—A. Yes, sir.

Q. When did it cease to be so much?—A. Well, the smuggling has ceased since the Zona Libre has been abolished in Mexico. That is, as to merchandise; but cattle and horses are still being smuggled. We catch them right along.

Q. All the time?—A. All the time; yes, sir. We catch them all the time; that is nothing special.

Q. That is going on now?—A. That is going on now.

Q. That is, the smuggling of what?—A. Horses, stock, and cattle.

Q. Who does that kind of work?—A. The Mexicans.

Q. Do you say there is a good deal of that going on?—A. Yes, sir.

Q. Pretty nearly every day?—A. No, sir; not every day.

Q. How frequently?—A. I couldn't tell you exactly how often, but the records will show. Every time we catch them we have to make a report on them.

Q. To whom do you make a report?—A. To the collector of customs, John W. Vann.

Q. Does he make a report of them?—A. Yes, sir.

Q. To the Treasury Department at Washington?—A. Yes, sir.

Q. So that in the Treasury Department here in Washington we would have a record, if we wanted to see it, of the number of arrests made?—A. Certainly; yes, sir.

Q. Does that report show by what officer the arrest is made?—A. Yes, sir.

Q. Did you ever make any arrests?—A. I have made over six hundred since I have been in the service.

Q. Over six hundred?—A. Yes, sir.

Q. Of Mexicans?—A. Yes, sir; and some Americans.

Q. How many of them were Americans?—A. I couldn't tell exactly, without looking at the records. I have a record.

Q. All these were there in the vicinity of Brownsville?—A. Yes, sir; and those three counties I have just mentioned.

Q. All along there?—A. Yes, sir.

Q. And do the other officers make, perhaps, as many arrests as you?—A. Yes, sir.

Q. What are the names of the other customs officers in Brownsville?—A. We have Mr. Tate, who is here. And we have Mr. Leighton and Mr. A. Y. Baker, M. G. Delling, Everett Anglin, Antonio Yznaga, and Salazar Olivera.

Q. You think the others have made as many arrests as you have?—A. No, sir; I don't think they have, sir, because some of those men are new men. I am one of the oldest men. I am the oldest man in the service.

Q. You mean you have made over 600 arrests in nine and a half years?—A. Yes, sir; the records will show it, either by myself or accompanied by brother officers; but my name appears on over 600 seizure reports.

Q. Over 600 seizure reports?—A. Yes, sir.

Q. Did you ever have any trouble with those men in arresting them?—A. I have had some trouble; yes, sir.

Q. You have? What was the nature of that?—A. They resisted arrest.

Q. Then what happened?—A. Well, we arrested them.

Q. You arrested them anyhow?—A. Yes, sir.

Q. Did you ever have any firing or fighting?—A. Never any firing. I have had to knock two or three of them down.

Q. You have had to knock two or three of them down?—A. Yes, sir.

Q. When did you knock any of them down?—A. There was one of them tried this last term of court.

Q. This last term of court?—A. Yes, sir.

Q. What was his name?—A. Policarpio Avila.

Q. What did you arrest him for?—A. Smuggling.

Q. What was he smuggling?—A. Smuggling liquor, sir.

Q. Is he a Mexican?—A. He is a Mexican; yes, sir.

Q. Where was he smuggling across? At what place did you catch him?—A. About 2 miles above Brownsville.

Q. About 2 miles above Brownsville?—A. Yes, sir.

Q. That is up above Matamoros?—A. Yes, sir.

Q. Was he bringing this liquor out of Matamoros?—A. No, sir; he was coming from across the river. It is about 2 miles above Matamoros.

Q. How did you happen to know he was there?—A. I will explain it to you. We received information that this man who was accompanied by another man that night, who got away from me, was going to bring over some liquor, and two of us boys went up about dusk. Inspector Combe was the one who was with me. We hid our horses in the brush about a quarter of a mile from the river, and we had been there a couple of hours when Combe suggested that he go back and bring our horses up closer, and he had hardly left when the boat came across the river with this man I caught and the other man. I walked out to them. It was pretty dark. I didn't see the boat when it crossed; I didn't see the boat until it landed, and I walked out to them, and when they saw me, the man who got away,

he broke and ran and got away in the brush, and I started for this man who had the sack on his shoulder. When I got up to him he drew a knife, and as he turned I hit him with my six-shooter and knocked him down, and at that time Inspector Combe came up, and we put him on a horse and carried him up to the custom-house.

Q. And about what time was that?—A. That is about a year ago, I suppose; probably a little longer. It is probably about a year and a half. He was tried before the United States commissioner and gave bond, and he forfeited his bond, and about two weeks before I left home I was riding through town, and I saw him.

Q. That is, about two weeks before you left home to come here?—A. Yes, sir.

Q. Within two weeks, then?—A. About two weeks ago I saw him in the street and stopped him and turned him over to the deputy United States marshal.

Q. That is, you rearrested him?—A. Yes, sir; and took him to the United States marshal, who took him to the jail.

Q. That happened before this Brownsville shooting affray?—A. Yes, sir.

Q. How long before?—A. Probably about a year.

Q. Was there anybody else that you had trouble with?—A. Two other fellows; yes, sir; about the same kind. Just about the same circumstances. They were crossing the river, and I happened to be alone when I walked out to arrest them.

Q. And what were they trying to smuggle?—A. Also liquor, and one of them had a lot of linen.

Q. Linen?—A. Yes, sir.

Q. Did you have to knock one of them down?—A. I had to knock both of them down. This was two different parties.

Q. Can you give us the names of those two men?—A. I can give you the name of one of them; yes, sir; Luciano Rodriguez and Sabas Zamora.

Q. When were those two arrested?—A. That is quite a long time ago now, Senator, and I couldn't tell you exactly when it was without looking at my book, but that is four or five years ago.

Q. I can get the date from the Treasury Department, I suppose?—A. Yes, sir; I suppose you can.

Q. You made a report of all of this, did you?—A. Yes, sir.

Q. Now, you have told us of three men you had to knock down. Did you have a similar experience with anybody else?—A. No, sir; those are the only three men I had any trouble with the whole time I have been in the service. Never had any trouble with anyone else.

Q. Did you make any arrests shortly before the Brownsville affair?—A. No, sir.

Q. Were you or not making arrests from time to time right along during all last year?—A. Certainly. Whenever I would catch a smuggler I would arrest him.

Q. And that was likely to happen any day?—A. Any day; yes, sir.

Q. The record in the Treasury Department will show what arrests you made last year?—A. Yes, sir.

Q. You do not remember any that made a special impression?—A. No, sir; there were too many of them. I can not recollect them all, sir.

Q. What kind of people are these that do the smuggling?—
A. Mexican people.

Q. I mean, are they men who engage in that business?—A. Principally; yes, sir.

Q. And they have been at it a good many years, have they not?—
A. I could not say, sir.

Q. Is that section of the river along there one in which they have what they call bancos?—A. Yes, sir.

Q. You are familiar with what bancos are?—A. Yes, sir; I am. We have one there very close to Brownsville that gives us a lot of trouble.

Q. Right close to Brownsville?—A. Yes, sir.

Q. What is the name of that?—A. Canales Treviño.

Q. About how many acres of ground are there in that banco?—A. I have never been in it, but from riding around it I should judge between 200 and 300 acres.

Q. Senator Warner wants me to ask you to describe a banco; state what it is.—A. A banco is a body of land cut off from the mainland by the river. We have Mexican bancos, also, over in Mexico.

Q. They are generally of a "U" shape?—A. Yes, sir. In other words, there is a long bend of the river, and the river eating on this long neck finally cuts through, and that changes the channel of the river.

Q. They are not islands, because the neck of the "U" connects them with the mainland?—A. Yes, sir.

Q. They may be on one side or the other?—A. Yes, sir.

Q. That river is full of them, is it not?—A. Yes, sir.

Q. And they make smuggling there much easier than it would otherwise be?—A. Yes, sir; they give us considerable trouble.

Q. You have a good deal of difficulty on the question of jurisdiction, have you not?—A. No, sir; we never had a particle of trouble as to jurisdiction.

Q. You have not had any?—A. No, sir; we never have had.

Q. We have just concluded a treaty defining the boundary line there, and that was the reason assigned for it, that there was trouble as to jurisdiction, and you did not know, when you caught a man, whether you were in Mexico or in Texas, half the time?—A. That may be so, but all the bancos in our territory are fenced.

Q. You never have had any trouble of that kind?—A. No, sir. We respect the fences, just as they are. I could not say whether a certain place was in Mexico or the United States, but we have a division line.

Q. That you both observe?—A. Yes, sir.

Q. Now, they have mounted custom-house officers on the Mexican side, do they not?—A. Yes, sir.

Q. And those officers are over there to catch smugglers?—A. Yes, sir.

Q. There is a good deal of smuggling from our side into Mexico, is there not?—A. Yes, sir.

Q. And a good deal of smuggling from Mexico over to our side?—
A. Yes, sir.

Q. Do these smugglers go armed?—A. With the exception of three or four, I have never seen any of them armed; no, sir.

Q. Are they a law-abiding people?—A. Yes, sir; so far as anything else goes; with the exception of smuggling.

Q. Well, smuggling is not a law-abiding vocation.—A. I know that, but I mean that I have never known any of them to do any fighting, or I have never known any of them to be desperadoes.

Q. One of them drew a knife on you?—A. Yes. I say with a few exceptions, that has been my experience.

Q. You arrested one of these men the other day who had forfeited his bond?—A. Yes, sir.

Q. That was the last man that you hit with a revolver?—A. Yes, sir.

Q. You hit him about a year and a half ago?—A. About a year and a half ago; yes, sir.

Q. And he was arrested and let out on bail?—A. Yes, sir.

Q. And he forfeited his bond?—A. Yes, sir.

Q. And he was never rearrested until you rearrested him?—A. No, sir.

Q. So that he was foot loose the night of August 13 last?—A. Yes, sir.

Q. Do you know where his home was?—A. No, sir; I never knew that.

Q. You knew him?—A. Yes, sir; I knew him personally; knew him well.

Q. How long have you known him?—A. About twelve or fifteen years.

Q. Where does he live?—A. In Brownsville.

Q. He lives in Brownsville, does he?—A. Yes, sir.

Q. Was he round about Brownsville during this time that that bail stood forfeited?—A. He was not, sir.

Q. He had fled from there?—A. Yes, sir. The first time I had seen him after he forfeited his bond was when I saw him that day, and asked him to come along with me, and hunted up the deputy United States marshal and turned him over to him.

Q. Had you been on the lookout for him?—A. No, sir.

Q. You knew that he had forfeited his bail?—A. Yes, sir.

Q. What was his bail, by the way?—A. Fifty dollars, I think.

Q. Is it often that a man who is let out on bail forfeits his bail?—A. Very seldom.

Q. But he did do this in this instance?—A. Yes, sir.

Q. Were you looking for him during the time his bail stood forfeited?—A. No, sir; it was not my business. That was the marshal's business.

Q. If you had seen him at any time, however, you would have arrested him?—A. Yes, sir; because the deputy marshal had asked me if I saw him to hold him for him.

Q. And you knew him?—A. Yes, sir; I knew him well. He has chopped wood at my house many a time.

Q. And he knew you?—A. Yes, sir.

Q. How old a man is he?—A. A man, I judge, about 45.

Q. How did you knock him down?—A. I hit him with my six-shooter.

Q. Hit him with your six-shooter?—A. Yes, sir. I didn't want to shoot him. I was close enough to knock him down. If I had not been, I would have shot him.

Q. Could you tell who he was?—A. No, sir; he was running from me, and it was dark.

Q. How close were you to him?—A. I was almost up to him. I reached out for him, I had been calling to him to stop, and I was just about to grab him, and I had my hand out to take hold of him, when he turned, and as he turned he had a knife, and I saw the knife and knocked him down.

Q. So that you did not know him, although you were close to him?—A. No, sir. After I hit him I spoke to him by name, and I knew him.

Q. After you knocked him down you spoke to him?—A. Yes, sir.

Q. You addressed him by name?—A. Yes, sir. He was running from me and I was after him, and I was just about to reach and catch him by the shoulder. I had been hollering to him to stop all this time, and when he heard me getting close to him he turned around, and when he went to wheel around I saw this knife in his hand and knocked him down.

Q. He knew you well all this time?—A. Yes, sir.

Q. He knew your voice?—A. I could not say whether he knew my voice.

Q. He had been there in Brownsville all this time?—A. Yes, sir.

Q. And he had worked for you?—A. Yes, sir; he had chopped wood for me.

Q. And he knew you well?—A. Yes, sir.

Q. And he knew you to be a customs officer?—A. Yes, sir.

Q. And he knew that you knew him?—A. Yes, sir.

Q. And that he was a smuggler?—A. Yes, sir.

Q. And he knew it was your object to arrest him?—A. Yes, sir.

Q. And he knew that you were addressing him as an officer when you hollered to him to stop?—A. Yes, sir.

Q. And he knew you were after him?—A. Yes, sir.

Q. And you did not know him until after you knocked him down?—A. No, sir.

Q. This was in the night-time?—A. Yes, sir.

Q. How far were you from him? You did not recognize him?—A. No, sir; not until he fell down.

Q. When he turned with his knife, to use it on you, he doubtless knew who you were, did he not?—A. No, sir; I do not think he did, for this reason: When I spoke to him after he fell down he addressed me in Spanish.

(The witness here spoke in Spanish.)

Q. Just give that to me in English.—A. "Frederico, is it you?" He called me by name.

Q. He called you by name?—A. Yes, sir. "Mr. Fred," he says, "is it you?"

Q. "Is it you?"—A. Yes.

Q. That was after you had knocked him down?—A. Yes, sir; after I knocked him down. He was still on the ground when he said that.

By Senator OVERMAN:

Q. Did you ever have any suspicion that this man and his companions did this shooting in the town of Brownsville on the 13th of August?—A. None whatever, sir.

By Senator FORAKER:

Q. No; of course you knew it was negro soldiers.—A. I do not pretend to say that it was negro soldiers. I never said it was.

Q. You do not pretend to say that it was negro soldiers?—A. No, sir; I can not say it. The only reason I believed it was negro soldiers was on account of the shells; and I do not believe that anybody could have concocted such a plan as was carried out that night unless they were organized. I do not believe that any band of men could have carried out a thing as quick as that was done, without they had an organization.

Q. You must allow us to judge of that, and to argue the case. What we want are the facts.—A. Yes, sir.

Q. Did you not see a man that night?—A. No, sir.

Q. You did not see a man at the time you looked out?—A. I did not look out until ten or fifteen minutes after I took my wife and children to the kitchen.

Q. Not until ten or fifteen minutes after?—A. No, sir.

Q. You testified before the citizens' committee, did you not?—A. Yes, sir.

Q. There was a stenographer there to take down your testimony?—

A. Yes, sir; there was a stenographer there.

Q. Do you know who asked the questions there?—A. I believe it was Captain Kelly.

Q. Your answers were made to him?—A. My answers were made to Captain Kelly in this way: He asked me what I knew, and I went on and told him, and the stenographer took it down from memory. There were no questions at all.

Q. Let me refresh your memory, Mr. Starck. Let me read to you from this record of your testimony:

Q. Tell what you know.—A. I don't know that I can help you much.

That is right?—A. Yes, sir.

Q. Now, we have got a good start. The next is:

About half-past 12 last night I was awakened by a volley being fired into my home.

Is that right?—A. No, sir.

Q. That is, you did not awaken until after they fired into your house?—A. No, sir. If that is down that way, that is not right. I did not say it that way. I testified before Mr. Purdy, and I testified before the court-martial at Fort Sam Houston, when I was asked about the hour, that I did not know the exact hour; that I did not have the time to look at the clock, but that I just supposed it was 12 o'clock.

Q. I will read now from your testimony as reported before the citizens' committee.—A. Yes, sir.

Q. I am asking you only about that. I want to find how accurate that testimony is. This reports you as saying:

About half-past 12 last night I was awakened by a volley being fired into my home.

Now, I do not care anything about the hours you gave, whether half-past 12 or half-past 11. What I want is to know if that is cor-

rect, that statement that you were awakened by a volley?—A. No, sir; that is not correct. I never gave it that way.

Q. At what time did you get awake? What awakened you?—A. The first shots we heard, as I stated, were towards the Miller Hotel, and we heard a bugle, and my wife and I were asleep, and my wife said "I think there is fire in the post;" and immediately after that a volley was fired in front of my house. I was already awakened when that volley was fired in front of my house.

Q. This citizens' committee was made up of very reputable men, was it not?—A. Yes, sir.

Q. The leading citizens in Brownsville?—A. Yes, sir.

Q. I will read you further from this:

One of the shots passed right over our beds, through both our bedrooms and my children's bedroom.

That is correct, is it?—A. No, sir.

Q. That is not correct?—A. No, sir.

Q. What is wrong with that?—A. I always said two shots went over my little children's bed.

Q. Two shots?—A. Yes, sir.

Q. If they have got it one, that is a mistake?—A. Yes, sir.

Q. This testimony was given the day after the occurrence?—A. Yes, sir. I recollect distinctly that I was on duty at the ferry, and they sent for me, and I came in there, and, as I told you, I went on and told them what happened. There might have been one or two questions asked me, but I just gave it right out, direct, and left immediately.

Q. Let us get the balance of it and see whether that is correct or not. You continued as follows:

I saw man running down the street, coming this way.

That is correct, is it?—A. Yes, sir.

Q. Continuing, you said:

He had a rifle in his hand in about this position [motions at shoulder].

Is that correct?—A. Yes; I showed them the position that he had the rifle in when I saw him.

Q. What is that?—A. I stood up and showed them the position that the man had the rifle in.

Q. Take that gun there and show us, will you not, please?—A. He came along running this way [illustrating with gun]. He had it in his hand and was running right down the middle of the street [indicating].

Q. When was that?—A. This was about five minutes after the shooting was over.

Q. This was after the shooting?—A. Yes, sir; all the shooting was over. I was at the window then.

Q. So that we must not understand this statement to mean that when you got up and looked out the first time you saw this man?—A. No, sir. When I first looked out the window I saw no one. I said at the Penrose court-martial that I saw no one until ten or fifteen minutes afterwards.

Q. After the firing?—A. After the firing; yes, sir.

Q. Did you know anything about who that man was?—A. Yes, sir; I know the policeman.

Q. Who was it?—A. Genaro Padron.

Q. One of the policemen?—A. Yes, sir.

Q. Ten or fifteen minutes after the firing was over, this was?—

A. Yes, sir.

Q. You saw Genaro Padron?—A. Yes, sir.

Q. Right out in front of your house, in Washington street?—A. Yes, sir.

Q. Which way was he coming from?—A. He was coming from the direction of the city hall.

Q. Is that north from you, on Washington street?—A. Yes, sir; just about a block.

Q. Was he alone?—A. Yes, sir; he was all alone.

Q. Now, you say, proceeding, before the citizens' committee:

I came to the window and saw an object behind the trees at Mr. Turk's.

Is that correct?—A. Yes, sir.

Q. Where is Mr. Turk's?—A. Right in front of my house; right across the street.

Q. He is a citizen of Brownsville?—A. Yes, sir; he is a citizen of Brownsville.

Q. Who lives there?—A. Yes, sir.

Q. Continuing, you say:

And was about to come down on him when I recognized him as one of the policemen.

Is that correct?—A. This is the same man.

Q. The same man?—A. The same man, Genaro Padron.

Q. You saw Genaro Padron coming down the street with a gun in his hand, running?—A. Yes, sir.

Q. And then you also saw him behind a tree?—A. Yes, sir; behind the trees. I saw him behind the trees first. He was on the sidewalk, and he came from behind the trees into the center of the street.

Q. Let me get that. Did you see him coming down the street with a rifle in his hand, first?—A. No, sir; I never saw the rifle in his hands until he came out from behind the trees into the middle of the street.

Q. Did you recognize him at once?—A. I did not know who it was. I knew he was a policeman, because he had a badge on. It was the next day that I knew it was him.

Q. When was it you were about to come down on him with your gun?—A. When he was behind the trees. Then I saw the badge.

Q. You recognized him as a policeman?—A. Yes, sir.

Q. But you did not know which one he was?—A. No, sir.

Q. Until the next day?—A. No, sir.

Q. You knew Padron well?—A. Yes, sir; I have known him for twenty years.

Q. You saw his badge?—A. Yes, sir.

Q. Was that all you could see by which you could recognize him?—A. Yes, sir; he was running. He was running all the time.

Q. Running where, now, from behind the trees?—A. Running down towards the Miller Hotel.

Q. I know, but you saw him standing behind the trees first?—A. No, sir; not standing. When I first saw him he was moving from behind the trees, and he came from behind the trees into the center of the street and kept right on up the street towards Thirteenth street.

Q. He was right in front of your house?—A. Yes, sir.

Q. Behind a tree that stood between you and Mr. Turk's house?—A. Yes, sir.

Q. That tree stood right at the edge of the sidewalk?—A. There were five or six trees there. There was not only one tree.

Q. Was he running on the sidewalk?—A. Yes, sir; and he came from the sidewalk into the center of the street.

Q. He ran out into the center of the street?—A. Yes, sir.

Q. From which way was he coming?—A. From the market; from the city hall.

Q. From the city hall?—A. Yes, sir; coming towards Thirteenth street.

Q. Going towards Thirteenth street?—A. Yes, sir.

Q. How could he, if you saw him at Turk's house, between Thirteenth and Fourteenth streets?—A. No, sir; Mr. Turk lives directly opposite me, between Twelfth and Thirteenth streets.

Q. Oh, yes; I am mistaken. Your house is up there, and you saw him between Thirteenth and Twelfth streets?—A. Yes, sir. The city hall is right on Twelfth street.

Q. But you saw him running on the sidewalk behind the trees?—A. When I first saw him; yes sir.

Q. And then he came out into the center of the street?—A. Yes, sir.

Q. And then turned the corner of Thirteenth street, towards the Miller Hotel?—A. Yes, sir.

Q. Did he come out from behind the trees in front of your house?—A. No, sir; a little past my house. The trees are right in front of my house.

Q. When did you observe that he was a policeman?—A. If I recollect, it is about the third tree. There are six or seven trees planted right along the edge of the sidewalk, and I might be mistaken, but it was either the third or the fourth tree. He was walking down this way, and as he turned to come out into the street I saw his badge on his left breast.

Q. What do you suppose that he came out into the middle of the street for if he was coming down to turn into Thirteenth street?—A. I could not tell you what his purpose was. That is what he did.

Q. When was it you were about to shoot at him?—A. Just after he left the third tree.

Q. And came out into the street?—A. This is Twelfth street, and the city hall is about here [indicating on map].

Q. Just take this rod and show us where you saw him first. Were you upstairs or downstairs?—A. Downstairs, right here [indicating].

Q. Looking out through the door or the window?—A. Looking right out of the window.

Q. Looking out of the window?—A. Yes, sir.

Q. Was there any screen in that window?—A. No, sir.

Q. Nothing to obstruct your view?—A. Nothing to obstruct my view; no, sir.

Q. And you had your gun with you?—A. Yes, sir; I had my gun with me.

Q. Where did you see him?—A. On the other side of the street.

Q. Right opposite you?—A. Yes, sir. The place has two lots. One is a vacant lot and the other is a store. They had trees all the way along the two lots.

Q. In front, on the sidewalk?—A. Yes, sir; in front on the sidewalk; and when I saw him running he was about the third tree, and when he got to the third or fourth tree he started out and came out in the middle of the street and turned this corner; he went over cat-cornered and turned the corner and went towards the Miller Hotel on Thirteenth street.

By Senator WARNER:

Q. That is, the third tree down toward Twelfth street?—A. Yes, sir.

By Senator FORAKER:

Q. You were about to shoot at him when you saw his badge?—A. Yes, sir.

Q. Was he running?—A. Walking a pretty fast gait.

Q. Walking pretty fast?—A. Yes, sir.

Q. He was in plain view?—A. Yes, sir.

Q. You saw him?—A. Yes, sir.

Q. What was there by which you could tell that he was a policeman?—A. His badge.

Q. You could see the badge?—A. Yes, sir.

Q. What kind of clothing did he have on?—A. Khaki clothing.

Q. What kind of a hat?—A. A hat; I could not tell you whether it was black or gray.

Q. But he had a hat on?—A. Yes, sir.

Q. Did he have a gun?—A. Yes, sir.

Q. Could you tell what kind of a gun it was?—A. No, sir; I could not tell whether it was a rifle or a shotgun.

Q. Except for the badge that was on him, you could not tell that he was a policeman?—A. No, sir.

Q. How far were you away from him when he was in front of your house?—A. It could not have been over 30 feet. These streets are 60 feet wide, and my house is on the sidewalk.

Q. So that he was 30 feet away from you?—A. Between 30 and 40 feet.

Q. You knew Padron?—A. Yes, sir.

Q. You have known him for years?—A. Yes, sir.

Q. He is a brother officer?—A. Not a brother officer.

Q. Well, he is a city policeman?—A. Yes, sir.

Q. And you are well acquainted with his appearance and all that?—A. Yes, sir.

Q. And you did not recognize him?—A. No, sir; I did not see his face at all.

Q. When did you find out that it was Padron?—A. Not until the next morning.

Q. You did not see his face? Did he not come right out in the street?—A. I could not tell who it was. You see, I could not tell who it was. There are several policemen of his build, and I could not tell which one it was. I can call them all by name for you.

Q. Did he not pass around by that light when he turned into Thirteenth street?—A. Yes, sir; but he was going from me, and I could only see his back.

Q. He is a pretty big, stout-looking man?—A. Yes, sir.

Q. But you could not see enough of him to tell who it was?—A. I saw the man plain, but I did not know whether it was him or Cal-

deron. Calderon is about his size. I did not know until next morning, when I got to talking about it, and he told me that it was him.

Q. The only thing you knew was that he had a badge on?—A. Yes, sir.

Q. And from that you inferred that he was a policeman?—A. Yes, sir; that is all the reason I can give for supposing that he was a policeman.

Q. If it had not been for that badge, you might have thought that it was one of the soldiers?—A. If I had not seen that badge, I give you my word of honor I would have shot at him. The way I was feeling at that moment I would certainly have shot at him, seeing him behind the trees over there.

Q. You would have shot at him for one of the soldiers; that is, you would have thought he was one of them?—A. I do not know whether I would have shot at him for one of the soldiers.

Q. You would have shot at him because you thought he was one of the shooting party?—A. Yes, sir.

Q. And you thought the soldiers were the shooting party at that time?—A. Yes, sir.

Q. You had come to that conclusion?—A. On account of the sound of the rifles; that is the only reason.

Q. You had heard that while the firing was going on?—A. Yes, sir.

Q. You had seen this man, and at the time you saw him you knew in your own mind that the soldiers had done the shooting?—A. Yes, sir.

Q. And except for that badge you would have shot at him?—A. Yes, sir.

Q. Thinking that he was one of the firing party?—A. Yes, sir.

Q. Although he was only 30 or 40 feet away from you, in plain, open view?—A. Yes, sir.

Q. Did any of the other customs officers have experiences similar to yours, in arresting smugglers? I refer to these experiences where you had to strike people over the head.—A. I believe there was one there.

Q. Who was that?—A. I do not remember. There were others, but they are not in the service now. Most of the men in the service are new men, that have been in there for, say, two or three years. I am the only old man in the service.

Q. Is there any statement you would like to correct in your testimony before the court-martial or before Mr. Purdy or any other place? If there is, I want to put that in evidence instead of detaining you here now.—A. There is a mistake in the Penrose court-martial. The stenographer made a mistake. They asked me what gun I had, and I said a Krag-Jørgensen, and they asked me how long I had had it, and I said "two years" and they got it "four years." That is the only thing.

Q. You did have a Krag-Jørgensen in your house?—A. No, sir; I said that while in the service I owned a Krag-Jørgensen, and two years previous to the shooting I turned that Krag-Jørgensen over to Mr. R. B. Creager.

Q. So that Mr. R. B. Creager had this Krag-Jørgensen at this time?—A. I could not say whether he had it. This was two years previous to the shooting that I returned it to him, and I bought

this 30-30 I have now. The reason I returned it was I considered it too heavy to pack around on horseback, and I got a lighter gun.

Q. Were officers in the service allowed to supply themselves with such guns as they saw fit?—A. Yes, sir.

Q. What kind of guns did the other officers have?—A. I believe every inspector in the service has a 30-30, except one who has a .40-caliber Winchester—the old Winchester.

Q. Has anyone a carbine?—A. Yes, sir; I know the carbine. There are two of them in the service have them.

Q. This is the carbine [indicating gun]. I call your attention to this.—A. That is not the kind of gun we had. We had the Winchester model that had the lever underneath.

By Senator WARNER:

Q. It is the Winchester?—A. They call them a Krag, but they are not a Krag, they are a Winchester.

By Senator FORAKER:

Q. Did you ever have this gun?—A. No, sir; never.

Q. You did not have one like that?—A. No, sir. It has a magazine underneath, and you can put five shells in it.

Q. You never saw this gun in the service?—A. No, sir; none of the officers had one.

Q. Are any of the guns around Brownsville of this pattern?—A. I never saw one.

Q. Do you know H. M. Fields?—A. Yes, sir.

Q. He keeps a store where he buys in and sells out old guns, does he not?—A. I have never known him to buy old guns in my life. I never knew him to sell anything but new guns.

Q. Did you not ever hear of his buying second-hand guns from the soldiers?—A. No, sir; I never heard of it before, and I have gone into his place frequently—that is, regularly—because all of the officers buy their feed supplies from old Colonel Fields, and I have never seen any gun of that kind there.

Q. You spoke about these shots sounding like high-power rifle shots?—A. Yes, sir.

Q. Did you hear any other kind of shots that night?—A. No, sir; I did not.

Q. Did you not hear any pistol shots, either?—A. No, sir. If there were any fired, I never heard them.

Q. Mrs. Starck, did she give her testimony also before Mr. Purdy?—A. She did, sir.

Q. She is reported, at page 116, as saying:

We heard one shot down at this corner, but that was a pistol shot.

Q. Up toward Twelfth street?—A. Yes, sir.

A. She might have heard it, but I did not hear it.

Q. You did not hear it?—A. No, sir. And then, again, I might have heard it and not paid any attention to it. I do not mean by that to say that there were no pistol shots fired. I say that I heard none.

Q. This man whom you arrested, and who forfeited his bail, did he give bail again?—A. No, sir; he remained in jail.

Q. And is in jail now?—A. I do not know what they done to him. The court convened in Brownsville on the 13th of this month, and I

don't know what they done to him. They might have continued his case, I being the witness against him.

Q. Did you find out where he had been all this time?—A. Yes; he told me that he was in Matamoros.

Q. Across the river, in Matamoros?—A. Yes, sir. He told me that in the presence of the deputy marshal.

Q. Is there much smuggling from our side over into Mexico?—A. There is some; yes, sir.

Q. Where do those people live that do that smuggling?—A. The biggest part of them live over on this side, in Texas.

Q. Whereabouts?—A. In Brownsville.

Q. They live in Brownsville?—A. Yes, sir.

Q. Is that a regular business for those people who engage in it? Does it seem to be?—A. I don't know whether it is a regular business. I have seen them work at other things.

Q. When do they do this smuggling, in the nighttime?—A. In the night; yes, sir.

Q. They have boats that they use to cross?—A. Yes, sir.

Q. Are they at it pretty much all the time, some of them?—A. I have just stated that I do not know. I have seen them at it, but I do not know how often they do it. Naturally, being on the lookout for them smuggling from the other side, we naturally sometimes see them. I never pay any attention to anyone smuggling from this side to the other side. That is none of my business. I am looking out for what is coming from the other side.

Q. Do they make many arrests on the other side for smuggling from this side?—A. No, sir; not many.

Q. They do not make many?—A. No, sir; I do not think so.

Q. You go up the river to Santa Maria?—A. That is our regular beat.

Q. How far is that?—A. Thirty miles from Brownsville.

Q. How big is Santa Maria?—A. A little village, probably a couple of hundred people.

Q. How many?—A. A couple of hundred people.

Q. Is there a little village on the other side of the river, in Mexico, from there?—A. There are ranches all along the river.

Q. Is there much smuggling done up at that point?—A. It is about the same all along the river.

Q. All along there they are likely to be caught smuggling?—A. Yes, sir.

By Senator FRAZIER:

Q. Is your house a frame house?—A. Yes, sir.

Q. How about Mr. Tate's house?—A. It is frame, also.

Q. Is his a two-story house?—A. No, sir; one story.

Q. Yours is a two story?—A. Yes, sir.

Q. Was it up in the direction of Thirteenth street, between your house and Thirteenth street?—A. A livery stable.

Q. This brick wall you speak of runs back between your house and the livery stable?—A. Yes, sir.

Q. How high is that?—A. About 6 feet from the ground.

Q. How far does that come out to the street?—A. It comes right to the sidewalk.

Q. The edge of the sidewalk next to your yard?—A. Yes, sir.

Q. It does not go out across the sidewalk?—A. No, sir; it comes out to what we call our front fence.

By the CHAIRMAN:

Q. Does your house face the sidewalk?—A. The front of the house faces the sidewalk; yes, sir.

Q. It comes right out to the sidewalk?—A. No, sir; there is a little walk about 3 feet wide and a garden bed about $2\frac{1}{2}$ feet wide between the house and the front fence, and that would be about $5\frac{1}{2}$ feet between the front of the house and the front fence.

Q. What is your front fence?—A. An iron fence.

By Senator SCOTT:

Q. Were you taken before the grand jury at the time they were trying to indict some of these colored soldiers?—A. Yes, sir.

Q. You gave testimony before the grand jury?—A. Yes, sir; I did.

Q. Do you know any particular reason these colored men would have for shooting up your house?—A. I know of none, sir.

By Senator BULKELEY:

Q. Where did this policeman Padron disappear from your sight?—A. He turned into Thirteenth street, towards the Miller Hotel.

Q. You did not see him again that night?—A. No, sir; I saw him no more. He told me next morning that he was out hunting for two of the policemen that were missing—that the mayor of the city had sent them out to hunt two of the policemen who were missing. When I told him how near I had come to shooting him he told me that he had been sent out by the mayor to find these two policemen—by either the mayor of the city or the marshal, I do not remember which.

By Senator FORAKER:

Q. That was only fifteen or twenty minutes after the shooting?—

A. Yes, sir; only fifteen or twenty minutes after the shooting.

Q. Not longer than that?—A. No, sir.

By Senator BULKELEY:

Q. Are the police in Brownsville generally armed with guns?—A. No, sir.

Q. What are they armed with?—A. A six-shooter and a club is all I have seen them with.

Q. Those are their ordinary arms?—A. Yes, sir; that is the ordinary.

(Witness excused.)

TESTIMONY OF FRED TATE.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Please give your name in full.—A. Fred Tate.

Q. What is your age?—A. I was 46 the 24th of last August.

Q. Where is your home?—A. Brownsville, Tex.

Q. How long have you lived there?—A. Since the 17th of April, 1906.

Q. Where did you live before that?—A. In Fayette County.

Q. In Texas?—A. In Texas.

Q. What business are you in?—A. I am a mounted inspector of customs, stationed at Brownsville.

Q. How long have you been an inspector of customs?—A. Since the 17th of last April.

By Senator SCOTT:

Q. You mean April a year, do you not?—A. A year ago; yes. A year ago last April.

By Senator WARNER:

Q. Where was your post of duty?—A. Up and down the river—to patrol the river—and sometimes back from the river for some miles.

Q. There is only one ferry, I believe, between Matamoros and Brownsville?—A. There are boats, and then there are flatboats about 300 yards above—these skiffs that they cross freight in, and sometimes people, when there is a crowd there; when there are excursions.

Q. You remember about the time the Twenty-fifth Infantry, the colored soldiers, came to Brownsville?—A. No, sir; I do not remember the date.

Q. But you remember the circumstance of their coming?—A. Yes, sir.

Q. Were you ever down at the ferry when there was any trouble between the colored soldiers and anyone?—A. No, sir.

Q. The circumstance is related here that some one got pushed off into the mud in the river.—A. Yes, sir. On Sunday, the 12th of August, I was on duty from 7 o'clock in the morning until 4 in the afternoon, and I went off at 4 o'clock, and another man came on who relieved me until 10 o'clock, and it was customary at supper to relieve each other so that we could go to our suppers, and about 6.30 I went back to the ferry to relieve this man for him to get his supper, and there was some trouble there. That is, some man claimed to have been pushed off. I did not see him pushed off.

Q. Were you there at the time?—A. Yes, sir.

Q. Who was on duty there at that time?—A. Mr. A. Y. Baker.

Q. A customs inspector?—A. At the ferry.

Q. At the ferry?—A. Yes, sir.

Q. Did you see the man afterwards?—A. Yes, sir.

Q. Where was the man when you saw him?—A. He had gotten up and was standing on the board walk.

Q. He had gotten up from where?—A. From the custom-house.

Q. You do not mean from the custom-house, do you?—A. The ferry. They collect duties there; yes, sir.

Q. They collect duties at the ferry?—A. Yes, sir.

Q. How many of those colored people were there there at the time?—A. Three came across at once, but one did not stop.

Q. One went on?—A. One went on; yes, sir.

Q. Did you notice the condition of either of those men at all, as to whether they were drunk or sober?—A. Two of them were drunk.

Q. You say you saw them after they came up from the custom-house—that is, on the wharf?—A. Yes, sir. You know, here is the custom-house here, and there is a board walk to the custom-house—to the ferry, I mean—where they collect duties [indicating].

Q. One of those men at the time had considerable mud upon him?—A. Yes, sir. There is a big oil lamp there; not an electric light, but a lamp.

Q. Did you hear any remarks made by either of them at that time?—A. Yes, sir; I heard them. They got off probably 20 or 30 steps, I don't remember the exact distance, and they said, "We will see about this thing to-morrow."

Q. Did you hear any other remarks made?—A. No, sir; that was all.

Q. You are the party, are you, that struck the negro, on the sidewalk?—A. Yes, sir.

Q. Well, now, Mr. Tate, in your own way just give the facts, the circumstances, about that striking; what you did.—A. Well, on the night of August 5, my wife and my little girl and five other ladies were standing on the sidewalk. In my testimony at San Antonio it said four other ladies, making five ladies altogether, but there were six ladies altogether, standing on the street, on Eighth street, near the corner of Elizabeth and Eighth, I think. I am not very familiar with the streets, only a few of them. They were standing there talking, and I stood probably 4 feet in the rear, holding my little girl by the hand, and the ladies were in front of me, my wife facing nearly south, and a lady talking to her facing north, and another lady facing nearly east, and two other ladies—I don't remember how they were all facing. Anyway, my wife was standing here, and another lady here, very near the sidewalk [indicating].

Q. They were on the sidewalk, were they not?—A. Yes; I mean very near the edge of the sidewalk, on the edge of the street. These men came right through them.

Q. What men?—A. Two soldiers. I did not see them until they were right at them, two negro soldiers, and they pushed right through them. One of them struck my wife with his elbow in the back as he passed, and I struck him.

Q. In striking your wife with his elbow, was his elbow extended, or did he protrude his elbow for the purpose of striking her?—A. I thought it was intentional, or I would not have struck him.

Q. You struck him with what?—A. With a six-shooter, with a .45-caliber Colt six-shooter.

Q. Did you knock him down?—A. Yes, sir.

Q. What became of the other colored man?—A. I turned, and I never saw him any more. He had gone.

Q. And those were the circumstances of your hitting him?—A. Yes, sir.

Q. Now, Mr. Tate, you live 15 or 20 feet from Mr. Starck's house, do you?—A. Yes, sir.

Q. With your family, there?—A. Yes, sir.

Q. Were you at home the night of this shooting up of the town of Brownsville, on the 13th of August?—A. Yes, sir.

Q. Did you hear that shooting, or part of it?—A. Yes, sir; I heard a part of it. I did not hear it all.

Q. Had you gone to bed?—A. Yes, sir.

Q. And were asleep, were you?—A. Yes, sir.

Q. Just state what you heard of that shooting.—A. I couldn't say how many shots. I was awakened. My wife awakened me. I jumped up. I didn't know what it was, and of course I grabbed a gun the first thing. I didn't know what was the trouble.

Q. A Winchester-Marlin gun?—A. It is a Marlin, and it is a nine-Marlin gun.

By Senator FORAKER:

Q. A Winchester Marlin gun?—A. It is a Marlin, and it is a nine-shot gun; a magazine gun.

By Senator WARNER:

Q. You heard the shooting. In what direction was the shooting when you first heard it, from your house?—A. It was coming from the south.

Q. Calling the south towards the fort, it was coming from the direction of the fort?—A. Yes, sir.

Q. Did you hear the shooting in front of or near Mr. Starck's house?—A. Yes, sir.

Q. How soon was that after you got up?—A. It must have been four or five minutes—three minutes—five minutes.

Q. Shooting was going on all this time in different parts?—A. Yes, sir.

Q. I suppose you do not undertake to be accurate, under those circumstances, as to the number of minutes or anything?—A. No, sir.

Q. When you got up and got your gun, you went to the door?—A. No, sir; I went to the window.

Q. You went to the window?—A. Yes, sir.

Q. Did you see the parties doing the shooting?—A. No, sir; I could not see the forms. On Mr. Starck's gallery, or near the corner of his gallery, there is a rosebush with thick foliage, so that I could not tell who the men were. I could see flashes of the guns through there, but I could not tell who the men were.

Q. You noticed the flashes?—A. Yes, sir.

Q. Could you tell how many shots were fired in front of Mr. Starck's house there?—A. No, sir; I would not like to say positively, but I judge 25 or 30 shots.

Q. What were the reports of the shots that you heard—that is, as to whether they were from high-power guns or pistols?—A. They whistled considerably—the bullets whistled.

Q. I speak of the sound of the gun itself.—A. It sounded sharp; it popped, you know, and the bullets whistled. It did not sound to me like a six-shooter.

Q. Did you form an opinion what it was at that time?—A. Yes, sir; I formed the opinion that it was high-power guns—high-pressure guns.

Q. Then where did the shooting go after that?—A. I think that was the last of it. That was the last that I remember hearing.

Q. Did you go out that night?—A. No, sir.

Q. Why?—A. Because my family were afraid for me to leave.

Q. What does your family consist of?—A. I have a wife, two boys, to what girl.

Q. There was considerable alarm there and fright, was there, at the time?—A. Yes, sir.

Q. The next morning you went out, did you?—A. Yes, sir.

Q. You may state what you saw, if anything, of empty shells, exploded shells, as we call them, and evidences of the shooting.—

A. From my gallery I saw Mayor Combe, Mr. Starck, and Mr. Connor, the chief of police, pick up some shells. How many I do not know.

Q. When you speak of your gallery, you mean the veranda?—A. Yes, sir; the veranda. That is probably 40 or 50 feet from where I saw them pick these shells up.

Q. What else did you see, Mr. Tate?—A. That was all.

Q. Did you make any examination to see whether any of the shots had struck any of the houses there?—A. I went into Mr. Starck's house with him; yes, sir.

Q. What did you find there?—A. I found where a shot had gone through the ceiling, and then through the floor of the upper story, and where it came out it tore loose a long place—splintered it. Then, from the outside I saw three or four very small holes that went into the south end, you might say, of his house—the south side, at least.

Q. This shooting has been investigated and talked of a good deal there?—A. Yes, sir.

Q. Has there ever been any question about whether citizens did this shooting or as to whether colored men did this shooting?—A. Why, only from what I could hear from the officers who claimed that the citizens did it.

Q. Officers, where?—A. At the court-martial there.

Q. But among the people of the town?—A. No, sir; no, sir. There has never been any question about that that I ever heard.

Q. Did you ever make any threats against the colored soldiers?—A. No, sir; only that night that that one ran over my wife, or ran against my wife; and I told him that if he ever did it again I would certainly work on him worse than I had.

Q. You never made any threats at any other time?—A. No, sir.

Q. Do you know of threats made by any other citizens of doing violence to the colored soldiers?—A. No, sir; I do not.

Senator WARNER. That is all.

By Senator SCOTT:

Q. After you knocked this colored man down, what did you do with him; did you turn him over to a policeman or arrest him yourself?—A. I had not any authority to arrest him; no, sir. I did not turn him over to anybody.

Q. You let him get up and walk off, did you?—A. I told him to get up and get out in the street.

Senator SCOTT. That is all.

By Senator FORAKER:

Q. How old are you?—A. I will be 4 the 27th of August.

Q. Where were you born?—A. In Fayette County, Tex.

Q. What county?—A. Fayette County.

Q. How long did you reside there?—A. All my life until the 16th of April, 1906.

Q. At that time you went to Brownsville?—A. Yes, sir.

Q. How far away is Fayette County from Brownsville?—A. About 300 miles.

Q. Where is it; back in the interior part of the State or up the river?—A. It is in the interior part of the State, 90 miles east of San Antonio.

Q. Ninety miles east of San Antonio?—A. Yes, sir; between Houston, like, and San Antonio.

Q. What is the county seat of that county?—A. Lagrange.

Q. Did you live in Lagrange?—A. I was born and resided there and in Flatonia until 1906. Flatonia is still in the west part of Fayette County.

Q. What has been your occupation prior to coming to Brownsville?—A. I was deputy sheriff of Fayette County for six years.

Q. Did you make a good many arrests?—A. Yes, sir. I was deputy United States marshal for the western district for four years.

Q. Where?—A. In the western district of Texas.

Q. That was in addition to your service as sheriff?—A. Afterwards.

Q. Afterwards?—A. Yes, sir.

Q. And was that immediately before you went to Brownsville?—A. No, sir; that had been some time before. It has been sixteen years ago.

Q. What were you doing immediately before you went to Brownsville?—A. I had been feeding cattle for the market; had contracts to feed cattle; and I farmed.

Q. How did you happen to go to Brownsville?—A. I went down there and took an examination under the civil service, and got into the customs service.

Q. You got in through the civil service?—A. Yes, sir.

Q. Where did you take your examination?—A. At Brownsville.

Q. And was your examination for a position on this customs force?—A. Yes, sir.

Q. And they passed you? Who examined you?—A. The collector of customs and Mr. Brown, one of the board of examiners, and an inspector named Mr. Malby.

Q. The inspector of customs there is Mr. Vann.—A. No, sir; he was not then. He is now. When I went in the inspector there was named C. H. Maris.

Q. Do you know where he is now?—A. I do not know where he is. He is down in Mexico; in Guadalajara, Mexico. I think.

Q. You went there to take this position in 1906?—A. Yes, sir.

Q. You had not been living there in Brownsville very long, then?—A. No, sir.

Q. Had you become pretty well acquainted there?—A. Only fairly well.

Q. The soldiers came there at what time?—A. I do not remember the date.

Q. Did you ever have any trouble with negroes before?—A. No, sir; never in my life.

Q. You never struck one before in your life?—A. I have been in some little trouble, with the city marshal, at home.

Q. As the city marshal?—A. With the city marshal, just as a private citizen, assisting him to arrest a murderer.

Q. You were the city marshal?—A. No, sir; I was a citizen, assisting the city marshal in capturing a man who had murdered another.

- Q. Where was that?—A. At Flatonia, in Fayette County.
- Q. That was some years ago?—A. Yes, sir.
- Q. That is the only trouble you had?—A. Yes, sir.
- Q. What was the nature of that trouble?—A. This man had killed another one, and the city marshal called on me to help him to capture him, and he was captured.
- Q. Did you arrest him?—A. He was shot.
- Q. Did you shoot him?—A. I don't know who shot him. We all fired at him.
- Q. You fired at him and the city marshal also fired?—A. Yes, sir.
- Q. How many of you fired at him?—A. Two of us.
- Q. And he was running from you at the time?—A. Yes, sir.
- Q. And you killed him?—A. Well, I don't say that I killed him. One of us killed him.
- Q. He died?—A. Yes, sir; he died from the shot.
- Q. And maybe both of you hit him?—A. He was only hit one time. There was only one bullet hole into him.
- Q. Only one bullet hole?—A. Yes, sir.
- Q. And you do not know who hit him?—A. Yes, sir; I don't think I hit him. I don't know, of course.
- Q. Where was he hit?—A. Right here, in the back [indicating].
- Q. He was hit right there. You shot him from the back?—A. Yes, sir.
- Q. Did you ever have any other trouble?—A. No, sir; I never had any other trouble with them in my life. I was born and raised with them. I never employed any other labor in my life.
- Q. Were you ever brought to trial for killing that man?—A. No, sir.
- Q. Was the city marshal?—A. Yes, sir.
- Q. He was tried?—A. Yes, sir.
- Q. And acquitted?—A. Yes, sir.
- Q. Now, you went there in April, 1906, to Brownsville?—A. Yes, sir.
- Q. And you were a mounted customs officer?—A. Yes, sir.
- Q. You supplied yourself with arms?—A. Yes, sir.
- Q. Did you have to pay for them yourself or were they furnished by the Government?—A. I furnished them myself.
- Q. What arms did you supply yourself with?—A. A .45 Colt six-shooter.
- Q. Anything else?—A. And a gun. A Marlin gun.
- Q. Where did you get that Marlin gun?—A. I bought it at my home.
- Q. Why did you say a while ago that you had a Winchester-Marlin gun?—A. I am not very familiar with them. We never used them where I lived.
- Q. Do you not know that the Marlin and the Winchester are entirely different guns?—A. Yes, sir; that was a slip.
- Q. There is no such thing as a Marlin-Winchester or a Winchester-Marlin.—A. I am not very familiar with the high-pressure guns.
- Q. How many cartridges would that gun hold?—A. Eight in the magazine and one in the barrel.
- Q. When you had it full, ready for business, you would have nine shots at hand?—A. Nine shots; yes, sir.

Q. How were they put in; in a clip?—A. No, sir; on the side [indicating].

Q. They were just slipped in on the side?—A. Yes, sir; one at a time.

Q. What caliber was that Marlin gun?—A. 30-30.

Q. 30-30?—A. Yes, sir.

Q. Was that the same kind of a gun that Mr. Starck carried?—A. I don't know, sir; I could not say.

Q. Do you know of any other officers that had the same kind of a gun that you had?—A. No, sir; I do not.

Q. Where did you get your gun?—A. I bought it from a man in Flatonina.

Q. In Flatonina?—A. Yes, sir.

Q. That is, after the civil service passed you, you bought your gun at Flatonina?—A. Yes, sir.

Q. You did not go down to Brownsville to get one?—A. No, sir.

Q. What did that gun cost?—A. It cost me \$12.50. I don't know what it cost the other man.

Q. Did you have ammunition, too?—A. Yes, sir; the two boxes of cartridges that I got with the gun.

Q. Those are metallic cartridges?—A. Yes, sir.

Q. And high-power cartridges?—A. Yes, sir.

Q. Do you know how many grains of powder they have?—A. No, sir.

Q. You do not know how many grains of powder the 30-30 has?—

A. I am not familiar, as I say, with these guns, I never having had occasion to become so.

Q. Did you have any weapons when on duty as an officer except a six-shooter revolver and this Marlin gun?—A. No, sir; I only carried a Marlin gun when we went out on scouts on horseback; and when we are on duty in the town we carry a six-shooter. It is customary when we are on duty at the ferry to lay the pistol up in the office.

Q. Did you carry that Marlin gun?—A. No, sir.

Q. You carried your pistol on duty?—A. Yes, sir.

Q. You wore it all the time?—A. No, sir.

Q. You wore it on Sunday, did you not?—A. No, sir.

Q. You did not wear it on Sunday? You did not take it to church?—A. No, sir.

Q. Did you go to church?—A. Sometimes. I have been to church a few times.

Q. You were not at church the 5th of August, were you?—A. No, sir.

Q. You were not there that day?—A. No, sir.

Q. About what time in the day was it that you met these two negroes on the sidewalk?—A. It was night.

Q. About what time?—A. About 9 o'clock.

Q. Was it a dark night?—A. A starlight night.

Q. And the ladies were standing on the sidewalk a little bit in advance of you, were they?—A. Yes, sir.

Q. Your ladies had met some other ladies and they had stopped and were having some conversation?—A. Yes, sir.

Q. You were in the rear with your little girl?—A. Yes, sir.

Q. And you saw these two negro soldiers come along and, as I understand you, one of them elbowed your wife?—A. Yes, sir.

Q. And, as you thought, intentionally?—A. Yes, sir.

Q. You could see them distinctly?—A. Yes, sir.

Q. Did he say anything at all?—A. No, sir.

Q. He could see you distinctly also, could he?—A. I don't know whether he could or not.

Q. He was a good-sized, tall man, was he not?—A. No, sir.

Q. Did he say anything?—A. He did not until after I went back to him.

Q. When he came through the group of ladies to where you were, you hit him with the butt of your revolver?—A. No, sir; I didn't hit him with the butt; with the barrel.

Q. You held the butt of the revolver in your hand?—A. Yes, sir.

Q. And you hit him with the barrel?—A. Yes, sir.

Q. And you hit him where?—A. I tried to hit him across the head; I suppose I hit him there.

Q. Did he have on a hat or a cap?—A. He had on a hat.

Q. Did you say anything to him?—A. No, sir.

Q. You just waited until he came up, and then you blazed away?—A. Yes, sir.

Q. If he did not see you before you hit him, do you think that he saw you afterwards?—A. I do not know; no, sir.

Q. What happened to him when you hit him?—A. He fell off the sidewalk.

Q. You knocked him onto the ground?—A. Yes, sir.

Q. He fell flat on the ground?—A. Yes, sir; I suppose the lick knocked him down. He fell down.

Q. He fell on the sidewalk?—A. He fell off of the sidewalk.

Q. On the street side?—A. Yes, sir.

Q. And you hit him so as to knock him in that direction, did you?—A. He was coming towards me, coming towards the north, and I was facing south, and I hit him that way [indicating]. I don't know whether I hit him to knock him that way or not. The lick would have knocked him off. At any rate, he fell off.

Q. You hit him a pretty hard lick?—A. Yes, sir; I hit him a pretty good lick.

Q. Did you cut his head?—A. I don't know whether I did or not; I never saw his head.

Q. Did you stop to look at his head?—A. No, sir.

Q. What did he do?—A. He fell down.

Q. Then he got up?—A. Yes, sir.

Q. Immediately, did he not?—A. No, sir.

Q. How long did it take him to get up?—A. Perhaps a minute.

Q. Did he say anything while he was there?—A. When I went back he said, "What's the matter, kid?"

Q. He called you a kid?—A. Those are the words that he used.

Q. He said, "What's the matter, kid?"—A. Yes, sir.

Q. What did you say to him?—A. I said, "What did you run over those ladies for?" He said, "I didn't know any better." I said, "Do you know any better now?" He said, "Yes." Then I said, "You get up and get out in the street, and don't you ever run over any ladies in my company again."

Q. You came back to him, you say?—A. I turned around, where the other man was, you know.

Q. Did you leave your position where you struck him with your revolver?—A. I turned that way [indicating].

Q. And the other man was running, was he not?—A. He was gone; I never saw him.

Q. You never saw him?—A. No, sir.

Q. Did you not see the other man run across the street?—A. No, sir; I did not.

Q. Where were you when this happened?—A. On Elizabeth street, near H street.

Q. That is four squares beyond the Miller Hotel and more?—A. Yes, sir.

Q. Five squares?—A. Five squares.

Q. What were these men doing? Did they have arms?—A. I did not see any.

Q. They were just walking along, were they not?—A. No, sir.

Q. Did you hear them saying anything—talking?—A. No, sir.

Q. They were not drunk?—A. I could not say.

Q. You did not see any evidence of that, did you?—A. I did not hear anything—didn't hear any loud talking.

Q. Was there room on either side of the sidewalk for them to have stepped out and walked around this group of ladies?—A. Yes, sir.

Q. Is it not true that this man, when he saw this group of ladies standing there, did step off the sidewalk and go around, and as he stepped on the sidewalk you, without saying a word to him, struck him and knocked him down?—A. No, sir.

Q. And that it was not as you have told us?—A. No, sir; it was just as I have told you.

Q. You have been examined before about this?—A. I was examined at San Antonio by Colonel Glenn.

Q. And you made some statement before that, did you not?—A. Yes, sir; I made a statement before a United States commissioner.

Q. Do you wish to change any statement that you have made, either that made before Colonel Glenn or that at San Antonio?—A. I do not know, sir, just what I said. It has been several months ago.

Q. You never have told anything about it at any time except just as it happened?—A. Just as I remembered it, sir.

Q. Did you make any arrests after you became a customs officer in 1906?—A. Yes, sir; we caught several smugglers.

Q. You did? How many arrests had you made altogether up to the time this shooting affray, probably? That would be April, May, June, and July and the first half of August.—A. I don't know; I could not say.

Q. Four or five months. In the first four or five months of your service how many arrests did you make?—A. I could not remember.

Q. Did you get busy right away?—A. Yes, sir; I went to work on the 17th of April, 1906.

Q. How many officers did you have at that time?—A. I think I made the eighth man in the service—mounted man.

Q. Were there some who were not mounted?—A. Yes, sir; they are all known as mounted men, but three of them work at the river, at the ferry, and at these skiffs that pass backwards and forwards.

Q. Are they in addition to the eight?—A. No, sir.

Q. There are only eight altogether?—A. There were then. There are more now.

Q. How many more are there now?—A. I think altogether there are 12 men.

Q. Why have they increased the number?—A. I don't know. Perhaps they thought they needed them, Senator.

Q. Has the business increased?—A. I do not know.

Q. We were told a while ago by Mr. Starck that the business had declined.—A. I could not say.

Q. That the business had declined. What is your opinion about that?—A. I really do not know. Right around Brownsville I do not think there is so much smuggling.

Q. That is improving now?—A. Yes, sir.

Q. How many smugglers have you arrested, altogether, down to this time?—A. I never kept any record of it, sir.

Q. Do you not keep a record of every arrest?—A. No, sir.

Q. Are you not required to keep a record of every arrest you make?—A. No, sir; I turn them over to the deputy United States marshal.

Q. Does he make a report?—A. I suppose so.

Q. Do you not make a report?—A. No, sir.

Q. You can not tell, then, how many arrests you have made?—A. No, sir.

Q. And there is no record that would show that?—A. I suppose in the United States commissioner's office there, there would be a record to show.

Q. Have you made any arrests where you have been resisted?—

A. No, sir.

Q. You have never had to use any violence in making an arrest?—

A. No, sir.

Q. Have you made arrests at night-time?—A. Yes, sir.

Q. Is this smuggling going on constantly there?—A. Yes, sir.

Q. Mexicans smuggling into our country?—A. Yes, sir.

Q. And Texans smuggling into Mexico?—A. Yes, sir; some little. The Texans do some on the other side.

Q. Some of our Texan smuggle on our side, do they?—A. Yes, sir; a good many Texans that live over there.

Q. A good many live over there?—A. Yes, sir.

Q. You say that there are a good many of them?—A. Some are Texans that come over and smuggle back.

Q. Did you ever arrest any of those that come over and smuggle back?—A. Yes, sir.

Q. How many arrests such as that have you made?—A. Two or three.

Q. Two or three?—A. Yes, sir.

Q. And have you ever arrested any Mexicans smuggling from our side into Mexico?—A. We do not arrest them going that way.

Q. You do not care how much of that they do?—A. We can not prevent that, you know. We require them to take out a permit on account of the ferry there.

Q. I was only asking. Now, all this man said to you when he got up was to ask why you had hit him?—A. He did not ask me why I had hit him. He said, "What's the matter, kid?"

Q. "What's the matter, kid?"—A. Yes, sir.

Q. And you told him?—A. Yes, sir.

Q. And then he went on?—A. No, sir.

Q. You did not give him any assistance?—A. No, sir.

Q. Did he need any?—A. No, sir; he didn't seem to.

Q. It took him about a minute, though, to get up?—A. I said about a minute; it may have been longer.

Q. You did not give yourself any further concern about it?—A. No, sir; I never—

Q. Now, up until that time there had not been any trouble of any kind in Brownsville, had there?—A. To my own knowledge; no sir. I could not say; only hearsay.

Q. But from that time on there was a bad feeling there, was there not?—A. I don't know, sir.

Q. Did you not tell it about over the town, what had happened, and what you had done?—A. It became known.

Q. It became known and generally talked about, did it not?—A. Perhaps it did.

Q. And your account of the affair was received by everybody without any question?—A. It became known, because I had to make a statement there, an affidavit, and all the custom-house men knew it.

Q. Yes; and the newspapers published an account of it, did they not?—A. Yes, sir.

Q. About how impudent the negroes had become, and so forth?—A. Yes, sir.

Q. And the result of that was a very bitter feeling on the part of the citizens towards the negroes?—A. I didn't hear that; no, sir.

Q. You did not hear that? Did not a great many people talk to you about it?—A. Not a great many people.

Q. Did not a great many people say that you were right, and that they would do the same, only worse?—A. Perhaps several of them told me that.

Q. That would not have made any special impression on you?—A. I don't know that it would; no, sir.

Q. How?—A. I don't know that it would have made any special impression on me; no.

Q. You might have heard that said repeatedly?—A. I expect I did. I might have heard it a dozen times.

Q. As a matter of fact, you did hear it, did you not?—A. Perhaps I did.

Q. Do you not know that, as a matter of fact, that bitter feeling about that time broke among the citizens towards the soldiers?—A. No, sir; of my own knowledge I do not; not until later on.

Q. Did not that continue to grow worse and worse?—A. No, sir; not to my knowledge.

Q. And continue to be talked of until the following Sunday night? You heard of the Evans incident, did you not?—A. Yes, sir.

Q. There was a boiling feeling of resentment in the town then, was there not, when that was told?—A. Well, perhaps there was.

Q. Well, let us have it; just as a matter of fact—A. If you want my own feeling, yes; there was with me.

Q. There was a great feeling there of indignation, was there not?—A. Yes, sir.

Q. And it was generally talked about?—A. Yes, sir; I guess it was.

Q. And everybody felt exactly as you did?—A. I don't know about other parties' feelings.

Q. You heard it spoken of generally?—A. I might have heard a dozen people speak of that, too.

Q. This that happened down at the river, where a drunken soldier was pushed off of a gang plank, that did not amount to much, did it?—

A. No, sir.

Q. You never heard of that afterwards, did you?—A. No, sir: there was nothing heard of it.

Q. There was nothing in that?—A. No, sir. There was an incident happened the next evening that you haven't asked me about. That is hearsay, and I do not care to mention it. That is hearsay. If Mr. A. Y. Baker, the inspector, was here he would testify to that. He related that two men came into his house.

Q. Yes. He has testified about that.—A. Yes, sir. That is all in regard to that incident that I know anything about.

Q. You do not know, as a matter of fact, who did that shooting?—

A. No, sir.

Q. You did not see them?—A. I could not swear to a man; no, sir.

Q. When that shooting occurred you looked out but did not see anybody?—A. I could not see any men; no, sir.

Q. You heard the firing while they were still down about the Miller Hotel?—A. Yes, sir.

Q. You were awake and looking out?—A. Yes, sir.

Q. And you were awake and looking out when the soldiers commenced to fire on Mr. Starck's house?—A. Yes, sir.

Q. But even then you had not seen anybody pass around the corner?—A. No, sir.

Q. If anybody had passed around the corner you would have seen them, would you not?—A. You mean a bunch of men?

Q. Yes.—A. Yes, sir; I reckon I would. I was looking out of the south window, though.

Q. How far is your house from Fourteenth street?

Senator BULKELEY. You mean Thirteenth street?

By Senator FORAKER:

Q. Yes, from Thirteenth street?—A. I am not familiar with the streets. Do you mean Thirteenth street?

Q. Yes, I mean Thirteenth street.—A. This is Mr. Starck's house [indicating on map]?

Q. Yes. And your house is between Twelfth and Thirteenth streets on Washington street?—A. Yes, sir.

Q. This is south, towards the garrison [indicating].—A. I am right here, 15 or 18 feet from Mr. Starck's house [indicating on map].

Q. Are you nearer to Twelfth street than Mr. Starck?—A. Yes, sir; if this is north, here [indicating].

Q. That is north, yes.—A. Yes, sir. I am not familiar with this map.

Q. Is there a brick wall between your house and Mr. Starck's?—

A. No, sir; there is a little iron fence.

Q. There is a brick wall here that Mr. Starck said they fired over [indicating].—A. Yes, sir; there is a brick wall there.

Q. What is this on the corner?—A. A livery stable.

Q. On the corner of Thirteenth and Washington streets?—A. Yes, sir.

Q. How much front has that livery stable?—A. I could not tell you, to save my life. There is a yard, and a stable there, too.

Q. About how much front; 35 or 40 feet?—A. I would imagine 60 to 70 feet. I would not say, sure.

Q. What is there between Mr. Starck's house and the livery stable?—A. Just this brick wall.

Q. The brick wall is at the edge of the livery stable premises?—A. Yes, sir.

Q. Your house is how much farther north than Mr. Starck's house?—A. Perhaps 18 feet.

Q. That is a little yard between your house and his [indicating]?—

A. Yes, sir; there is a little iron fence with a brick base.

Q. And you run out as far as he does towards Washington street?—

A. Yes, sir.

Q. What kind of a house is your house?—A. A little, brown, one-story cottage.

Q. A frame house?—A. Yes, sir; a frame house.

Q. Where were you when you got up and looked out of the window?—A. There is a window in Mr. Starck's house, and a window here and a door here [indicating]. I was looking out of the window towards the side of his house.

Q. How far is that window from the pavement?—A. Twelve or fifteen feet.

Q. So that you could look out on Thirteenth street?—A. Yes, sir.

Q. Could you see this lamp-post here [indicating]?—A. I could get a glimmer of it.

Q. If somebody had come around the corner, could you have seen them?—A. I don't know, sir. I was looking through a rosebush on the corner of Mr. Starck's gallery, which obstructed my view.

Q. You heard this firing when his house was fired on?—A. Yes, sir.

Q. Did you see anybody come along Washington street before that firing?—A. Yes, sir.

Q. Who was that?—A. I took it to be a policeman.

Q. Where was he?—A. On the street, on the opposite side of the street.

Q. Where was he?—A. Outside of the sidewalk, under some trees.

Q. Outside of the sidewalk?—A. Yes, sir.

Q. How could he be behind the trees?—A. There are some trees on the east side of the sidewalk there.

Q. He was outside of the sidewalk, behind the trees?—A. Yes, sir.

Q. How wide is that sidewalk?—A. Ten or 12 feet.

Q. And there is a corresponding one on your side?—A. Yes, sir.

Q. The street is given as 60 feet wide?—A. Yes, sir.

Q. So that there would be 60 feet on the roadway and 10 feet for the sidewalk; is that about right?—A. Yes, sir.

Q. And he was outside of the sidewalk?—A. Yes, sir; according to my recollection. There are trees all along here [indicating].

Q. He was between the trees and you?—A. Yes, sir. Well, he was towards—

Senator WARNER. The trees were between him and the men?

The WITNESS. He was going from one tree to the other here, looking back. I could not swear to the position.

Q. You saw a man going along. What did you do?—A. I saw him fire a shot with a revolver.

Q. You saw him fire?—A. Yes, sir.

Q. He was on Washington street?—A. Yes, sir.

Q. Where was he then?—A. That must have been right here somewhere [indicating].

Q. That is about opposite Mr. Starck's house?—A. Yes, sir; only on the opposite side of the street.

Q. That is, he was here, on the opposite side of the street from Mr. Starck's house and on the opposite side of the street from your house?—A. Yes, sir.

Q. How many times did he fire?—A. Once.

Q. Did you see what he was firing at?—A. No, sir. I could not.

Q. You do not know what he was firing at?—A. No, sir.

By Senator OVERMAN:

Q. Could you see the direction that he was firing?—A. He was firing back.

By Senator FORAKER:

Q. He was firing back?—A. Yes, sir.

Q. Towards the post?—A. Yes, sir.

Q. He fired only one shot?—A. Yes, sir.

Q. You had the benefit of the flash of that, did you?—A. Yes, sir.

Q. Could you tell what kind of a man he was—a white man or a black man?—A. No, sir.

Q. How far was he away from you?—A. I would imagine it would be 60 or 80 feet from where I was.

Q. He got closer to you up there [indicating]?—A. Yes, sir; but there was no flash there then and there were no lights.

Q. There was no light up there?—A. No, sir.

Q. Is there not a light up there [indicating]?—A. Yes, sir.

Q. Does not that light from one street to the other?—A. No, sir; it does not.

Q. What kind of a lamp is it?—A. That is an ordinary lamp, inside of a glass case.

Q. An ordinary lamp inside of a glass case?—A. Yes, sir; a frame.

Q. There are two glasses, a chimney and a shade?—A. Yes, sir.

Q. Does this light shine through two covers?—A. Yes, sir; through a globe or chimney, and then the outside glass frame.

Q. About how far does that lamp throw the light?—A. Well, I wouldn't hardly know how to judge that, Senator. I wouldn't know how to say how far.

Q. Can you give us any guess about it?—A. It would be very inaccurate.

Q. You said there was no light here [indicating]. It was about there, and there was no light shining on him [indicating]?—A. No, sir; not from the lamp.

Q. About how far was that lamp?—A. About 40 feet or 30 feet, or somewhere along there.

Q. The light does not shine that far?—A. No, sir.

Q. Does it shine more than 15 or 20 feet?—A. I suppose 30 feet, perhaps.

Q. If a man would get that far from the light, he would be out of the light?—A. Yes, sir.

Q. However that may be, you looked at this man, and saw him shoot, and that attracted your attention to him?—A. Yes, sir.

Q. And you thought he was a policeman?—A. Yes, sir; I thought so.

Q. What kind of clothes did he have on?—A. I could not tell you that.

Q. What kind of a hat?—A. I couldn't tell you that. I just judged him to be a policeman from his dodging behind the trees.

Q. He was out from the trees?—A. No, sir; he was dodging from one tree to another.

Q. When he was going from one tree to another you could see him?—A. No, sir; those trees are very close together.

Q. How far apart are they?—A. I judge 10 or 15 feet.

Q. Was there anything to prevent you from seeing him when he went from one tree to another?—A. No, sir; but I could not tell what kind of a man he was.

Q. You could not see that, or what was the color of his clothes?—A. No, sir.

Q. There is the lamp right there?—A. It is some distance off.

Q. How far is it from Thirteenth to Fourteenth street?—A. I do not know the length of the blocks, Senator.

By Senator FRAZIER:

Q. He was under the shadow of these trees when you saw him?—A. Yes, sir.

Q. It was darker then than if he had been out from under the trees?—A. Yes, sir.

Q. What kind of a night was that?—A. A starlight night.

Q. Was it a dark night?—A. I don't remember, hardly, Senator, because I had just jumped out of bed, and I wasn't looking much at the light.

Q. Did you see anybody else at any time that night, anywhere?—A. Well, yes, sir. When I first got up I saw a gray horse. I don't know and could not swear as to who was on it, but looking through this rosebush I speak of I saw a gray horse pass under the light, coming that way [indicating].

By Senator WARNER:

Q. That is the corner of Thirteenth and Washington streets?—A. Yes, sir; underneath that light. That light looks to me as if it was wrong.

By Senator FRAZIER:

Q. The light is on the wrong corner?—A. Yes; that light should be here [indicating].

Q. On the Bolack corner?—A. Yes, sir.

Q. You saw the man on the gray horse turn around there?—A. Yes, sir; I saw him on a gray horse, but I couldn't tell who he was.

Q. Could you tell how he was dressed?—A. No, sir.

Q. Could you tell whether he was a black man or a white man?—A. No, sir.

Q. Who else did you see?—A. I saw a man on foot.

Q. Where was he?—A. Walking along by the horse.

Q. Could you tell how he was dressed?—A. No, sir.

Q. They were within a very few feet of that lamp?—A. Yes, sir.

Q. When they turned around the corner?—A. Yes, sir.

Q. You could not tell whether they had guns?—A. No, sir.

Q. Or what kind of clothes they had on?—A. No, sir.

Q. You saw them from your house, distinctly?—A. No, sir. The gray horse attracted my attention. Right there at the gallery of Mr. Starck, as I say, is a very large rosebush, and I was looking through that rosebush.

Q. But the leaves of the rosebush were not so thick but what you could see?—A. I could see the glimmer of the white horse.

Q. You could see through the leaves?—A. Yes, sir.

Q. There was an opening there?—A. Yes, sir; there is bound to be an opening [witness indicating].

Senator FRAZIER. That is all.

By Senator WARNER:

Q. When you say "an opening" in that rosebush, that is the opening usually in a rosebush?—A. Yes, sir; like my fingers [indicating]. You could see through that way [indicating].

Q. When you speak of the distance that one of those lamps will throw the light, you do not pretend to know from measuring it?—A. No, sir; I never thought about it then.

Senator WARNER. That is all.

Senator FORAKER. That is all.

By Senator FRAZIER:

Q. How long was it after you saw this policeman under the shadow of the trees going towards Twelfth street along Washington street until you heard the firing near and in front of Mr. Starck's house?—A. It could not have been over five minutes—probably four minutes.

Q. A very short time?—A. Yes, sir.

(At 4.10 o'clock p. m., the committee went into executive session, and at 5 p. m. adjourned until to-morrow, Thursday, May 23, 1907, at 10.30 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Thursday, May 23, 1907.

The committee met at 10.30 o'clock a. m.

Present, Senators Warren (chairman), Scott, Foraker, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

(Immediately upon being called to order by the chairman the committee went into executive session.)

At 11 o'clock a. m. the committee resumed its session.

Present, Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF DR. FREDERICK J. COMBE.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Please state your name in full.—A. Frederick J. Combe.

Q. What is your age?—A. I am in my forty-first year.

Q. What is your residence?—A. Brownsville, Tex.

Q. How long have you lived in Brownsville?—A. All my life, with the exception of my college days and my service in the Army.

Q. What was your service in the Army?—A. I was in the service five years, primarily as an acting assistant surgeon, and was promoted and made a major and surgeon. I was chief surgeon, prior to my muster out, of the Sixth Separate Brigade.

Q. Where was your service?—A. In Cuba and the Philippines.

Q. When were you discharged?—A. In October of 1902.

Q. You are a practicing physician also?—A. Yes, sir.

Q. How long have you been a practicing physician?—A. I have been practicing medicine nearly twenty years. I graduated in 1889.

Q. You were mayor of Brownsville?—A. About three years.

By Senator OVERMAN:

Q. You are now?—A. Yes, sir.

By Senator WARNER:

Q. Did you ever serve with the colored troops—that is, as assistant surgeon or chief surgeon?—A. Yes, sir.

Q. Where?—A. I served with the Tenth Cavalry, and I was senior surgeon of the transport which brought the Twenty-fifth Infantry to the United States from Manila—back home.

Q. You served with the Tenth Cavalry in Cuba, did you not?—A. Yes, sir.

Q. Was that during the Spanish-American war?—A. Yes, sir.

Q. Were you at Santiago?—A. Yes, sir; from the very first. I went with the army of occupation; I went with General Kent's division.

Q. Just by way of preliminary I will ask you a few questions. Had you any prejudice or feeling against the Twenty-fifth Infantry, or in fact of any colored regiment, coming to Brownsville?—A. None whatever, sir. On the contrary, I frequently expressed my opinion of the efficiency of colored troops when they are commanded by white officers.

Q. Brownsville is a city of what size?—A. It has a population of about 9,000.

Q. You are quite familiar with that city and its people?—A. Yes, sir.

Q. Now, Doctor, you may tell, if you will, if you know or ever heard since you have been mayor, or while a citizen of Brownsville, of any disposition upon the part of the police to mistreat a man because he was a soldier, either white or black?—A. No, sir; I do not know of any.

Q. What is your knowledge about that, the treatment, I mean?—A. I can speak more intelligently of it during my incumbency in office.

Q. Yes.—A. My orders repeatedly to the chief of police, as to the police of the town of Brownsville, were as follows: A soldier is a

soldier the world over, and he should be allowed some little latitude; that when the colored troops came there, under no circumstances should discrimination be shown; that they should be treated as well as the white troops were always treated.

Q. When you say "discrimination," what do you mean by that?—

A. I mean that the colored troops should have been treated the same way as the white troops were, and they should not be imposed upon or maltreated on account of color.

Q. That was your feeling as well as your instructions, was it?—A. Yes, sir; and it was carried out.

Q. As mayor?—A. Yes, sir; and that was my instruction.

Q. You heard of the Tate incident, did you?—A. Yes, sir; I heard of it.

Q. And of this man Reid, who was pushed off a gang plank, possibly, or fell off a gang plank, into the mud of the river?—A. I heard of that case, also.

Q. Now, Doctor, did you hear of any threats made by any citizen of Brownsville against the colored troops?—A. No, sir.

Q. Was any reported to you?—A. No, sir.

Q. Coming down to the 12th day of August, if that is the day of the Evans incident—A. Yes, sir.

Q. I wish you would commence there, Doctor, and in your own way, connectedly, go on with the events, including the night of the shooting up of Brownsville, taking your time and doing it that way.—A. It was reported to me some time during the morning of the 13th that a Mrs. Evans, living in the lower part of town, had been assaulted by a negro soldier. This report caused a good deal of feeling and excitement in the town.

Q. Right there, Doctor, permit me to break in. You knew Mr. and Mrs. Evans, did you?—A. Yes, sir; I had met them; I knew who they were.

Q. They were entirely respectable people?—A. Oh, yes, sir; yes, sir. They did not go out in society, but they were respectable people. I gave the chief of police instructions to investigate the matter, and went about my affairs. That afternoon Mr. Evans called on me. He was very much excited and perturbed, and he said: "Doctor, as mayor of the city we want you to go with us into the post to interview Major Penrose and report this outrage on my wife." I said: "How many citizens do you want to go with you?" He said: "At least 50." I said: "No; I will not go with 50 citizens. I see no necessity for that. You and I can go down and effect just as much. I know Major Penrose, and if this is true, he will do all he can to find out the guilty parties." About 5 o'clock in the afternoon we took a carriage and went to the administration building.

Q. That is, in the post?—A. Yes, sir. Major Penrose was not there, but one of the soldiers said he was at his quarters. I then proceeded with Mr. Evans towards the commanding officer's quarters, but we saw Major Penrose on the walk which bordered the parade ground between the hospital and his quarters. I stopped, shook hands with Major Penrose, and introduced Mr. Evans. As I said a few moments ago, Mr. Evans was very much excited and showed a great deal of feeling. The tears came to his eyes and he went on to tell Major Penrose what his wife had told him; that about 9 o'clock she was returning home on horseback, and that as

she entered the yard and was about to get off the horse this man seized her by the hair and threw her to the ground. She said that she saw that it was a negro.

Q. That was in the evening, was it?—A. Nine o'clock.

Q. That Mrs. Evans had been seized?—A. Yes, sir; about 9 o'clock.

Q. In the evening?—A. Yes, sir. She said that this man was a negro, and that he was dressed in the uniform of a United States soldier. She then lost consciousness. He said to Major Penrose that something ought to be done, that it was a great outrage, and that his wife was suffering from great shock, and he went on into details. Major Penrose was very much moved, and said that he did not believe that a man in his command would do such a thing, but that if he had, he would take up the matter at once and do everything in his power to ascertain who the culprit was. I then said to him in the presence of Mr. Evans, "Major, this is a terrible affair. The people in town are very much incensed and excited, and I protest against any of your officers or men"—I do not remember now whether I said "officers," but positively I said his men—"going into town to-night." Then I made use of one or the other of these expressions. "Major, if you allow those men to go into town to-night I will not be responsible for their lives," or "Major, do not allow your men to go out of the post, because there is a great deal of danger in town." One or the other of those expressions I used, I am not sure which.

Q. Right there, a witness by the name of Voshelle has testified in this case that in that conversation you said to Major Penrose, "If there is not an arrest made between this and 11 o'clock, every enlisted man seen in the streets will be shot."

Senator FORAKER. From what do you read?

Senator WARNER. That you will find on page 721 of volume 1.

By Senator WARNER:

Q. What have you to say as to that?—A. As to that I will state that that is absolutely false, and that I have a letter from Major Penrose in which he says that the man who said that is a liar.

Q. Have you that letter with you?—A. I have it at my hotel and will bring it to you. I neglected to bring it with me, but I have it with my papers.

Q. After the noon recess bring it up here.—A. Very well, sir.

Q. Did you at any other time or place make any such remark?—A. I never did.

Q. Now, proceed, Doctor, if you please, from where I broke in.—A. Major Penrose, in answer to what I said, answered, "I will take every precaution that I can, Major, to keep my men from going into town. I will recall all passes, and I shall send a patrol into town to find any of my men, if they are in there after nightfall." Then after a few remarks we parted, and I went back to town with Mr. Evans. I then cautioned Mr. Evans against any incendiary talk told him that I felt that Major Penrose would take the proper steps and that we also would try to find out something about it. That seemed to pacify him, and he went back to his wife, who was sick in bed. I went to my office and attended to my duties as usual about town. I met the chief of police later in the evening, and told Mr. Connor, owing to these occurrences—

Q. Connor was the name of the chief of police?—A. Of the chief of police. I told him, "Owing to these occurrences you will be especially on the qui vive"—I remember using that expression. We did not increase the police force, but simply kept it on as usual. I went home about 10 o'clock, read for awhile, and retired about half past 11. I was sleeping on my back gallery or porch.

Q. Right there, Doctor, you went home about half past 10, you say?—A. Thereabouts; yes, sir.

Q. Did you see any evidences of any excitement upon the part of the citizens, or any demonstration of any kind or nature as against the colored soldiers?—A. None whatsoever. I have never known the town to be quieter.

Q. You necessarily, as mayor, were seeing as to the condition after this Evans incident?—A. Yes, sir.

Q. And if there had been any such excitement or anything of the kind—A. I would have known it.

Q. You would have known it. Now proceed. Doctor, if you please. Just state where your home was.—A. My home was at the corner of Ninth and Elizabeth streets. I read for awhile, and, as I said a few moments ago, retired about half past 11. I was sleeping on the back porch. I dozed off and was not very sound asleep when I heard what I thought to be four or five pistol shots in a southerly direction from my home.

Q. That would be, then, in the direction of the barracks?—A. Yes, sir; almost immediately followed by an irregular rifle fire. I jumped up immediately and got into some clothes and went into the room where we keep our shooting things and picked up a revolver.

Q. Right there—and when you say you got a revolver where you keep your shooting things, just state what they were. Doctor.—A. My father and my brother and myself are very fond of hunting, and we have shotguns and rifles, and it is a very common thing out there for people to have pistols, and we keep our shells out there, and all our hunting paraphernalia, in this little room.

Q. Proceed.—A. I went out on my porch and called up to my brother. Dr. Joe Combe. I said, "Joe, there is shooting down the street; I am going down to find out what it is," or "to stop it," I don't remember which I said; I used one or the other of those expressions. I went out onto Ninth street, out of the entrance of the house on Ninth street, and went to the corner of my residence, looking towards the garrison. I started down that way, when my brother joined me. I ran along on the street and he on the right-hand sidewalk as you go down towards the post.

By Senator FRAZIER:

Q. Down what street, Doctor?—A. Elizabeth street. When I got a little past the post-office, just at the corner of Tenth and Elizabeth streets, my brother called to me from the other side of the street and said, "Fred, hug the wall. They are shooting down the street," or something to that effect.

Q. What street was that?—A. Elizabeth street. I ran over against the wall, and followed his instruction, and he took the other sidewalk. When I got to the corner of Eleventh and Elizabeth streets I took my pistol out. I want to say to the committee that one of the signals for the call of a policeman is, when a pistol is not used, to

give three sharp raps on an iron lamp-post. It gives a sound which can be heard a long ways. I attempted to give that signal with my revolver, but the metal striking on metal did not give the sound that I expected. I then went down until I reached the Salaya Building. That has iron posts supporting the porch.

Q. Where is that?—A. Right in the middle, on the left-hand side as you go down towards the garrison, between Eleventh and Twelfth streets. I felt around until I picked up a brickbat, and struck the iron post with it, and it gave out a ringing sound. Then I went on down the street. Shortly after that a man ran around from Twelfth street into Elizabeth street, right under the light, towards me. He was just in front of Rutledge's drug store or Putegnats jewelry store, and my brother and I covered him at the same time with our revolvers and ordered him to halt, which he did, and he said: "This is Genaro Padron." He came up to me and put his hand on my shoulder and said: "Do not go down any farther; you will be shot; they are shooting up the town." Whether he said "negroes" or "they" I do not remember. I said: "You follow me and come on down," and he did. Then I started to go down—

By Senator SCOTT:

Q. Was he a policeman?—A. Yes, sir.

By Senator WARNER:

Q. Go on.—A. Rutledge keeps an acetylene light in his jewelry store all night, and there was a light on the corner of Twelfth and Elizabeth streets, a city light. I saw a dark spot there, easily seen on the ground, and I stooped over and put my hand in it, and walked over nearer to the light and looked at it and smelt it, and saw that it was blood. I said to my brother Joe, "Joe, this is blood; somebody has been hurt. Follow the trail and see if you can locate who it is."

By Senator BULKELEY:

Q. When was that?—A. That was after I met the policeman.

Q. I mean at what street?—A. At the corner of Twelfth and Elizabeth streets, on a mesquite-block pavement. He went away. I went on down the street, and when I got opposite Crixell's saloon I saw a man about to go into the saloon with a gun in his hand. I afterwards found it to be an old Winchester rifle.

By Senator WARNER:

Q. The shooting was all over by this time?—A. The shooting was over; yes, sir. I halted him. I knew the man. His name was Jose Garza, or Tamayo, or something of the kind. I know him very well. He sometimes has acted as a special policeman. I halted him, and he stopped, and I said, "What are you doing with that gun?" And I took it away from him. I did not wait for any talk at all, and I said, "Get in there," and I put him in the saloon, and Mr. Crixell said, "That is my rifle." That is Crixell, the saloon keeper. So I gave the gun to him. They attempted to work the mechanism, and it would not work, while I was standing there, right in the saloon. As I walked into the saloon there was a chorus of remarks, such as, "Mr. Mayor, the negroes are shooting on the town."

Q. "Mr. Mayor, the negroes are shooting on the town?"—A. Yes, sir; or, "The soldiers are shooting on the town." I told Mr. Crixell

to close the saloon up. I walked out in front of the saloon and walked on down the street. As I neared the corner of Thirteenth and Elizabeth I saw a white body on the ground; and here I would like to go back and state that the chief of police, before I started down the street, came up, and I asked him where his policemen were. He said, "Some of them are here and some of them are coming in from their beats." I said, "Mr. Connor, are they all accounted for?" He said, "No, sir; four of them are missing." He told me who they were.

Q. Do you remember their names?—A. Dominguez, who was reported to have been killed; Macedonio Ramirez, Briseño, and Coronado. They were supposed to have been done away with. As I walked down the street and saw this body on the sidewalk I thought that it was four or five men, one on top of the other, which was a natural supposition after such a firing; but when I got up to where the body was I found it to be the horse of the lieutenant of police, which I found to be dead. I then walked to the corner of Thirteenth street and stood under this lamp, the street lamp, and looked up and down the street.

Q. That is, Thirteenth and Elizabeth streets?—A. Yes, sir; and some one called out—this has never gone into my testimony before, but I wish to state it here—some one called out, "Mr. Mayor, do not go out there in the street; they can see you from the garrison." The garrison is a square and a half from there. But I went right on across the street to the Miller Hotel and stood at the door and called out, "Does anybody know anything about this firing?" No one answered, but just at that moment a man in his pajamas ran down the stairs right near me, and I recognized him to be Mr. McGary, the cashier of the Merchants' National Bank. I did not have time to ask him any questions. He did not stop. I afterwards found out that he was getting out of that hotbed as fast as he could.

I then turned and came up Elizabeth street. By the way, I had told the people to stay down on that square. I did not want them to get any nearer the garrison; and when I got down there the people were running in, running in from all parts of town, armed with whatever they could find.

By Senator WARNER:

Q. This shooting had aroused the town?—A. Oh, yes, sir; they were all excited; everybody running in and calling out "the soldiers have shot up the town," and talking as men will in the excitement of the moment.

Q. Was that the universal expression at the time, right after the shooting, that the negroes had shot up the town?—A. There was not a man that said anything else, or that seemed to have thought anything else, at the moment. But I am going to say now, I do not remember whether it took place before Captain Lyon came out or afterwards, but I appreciated that it was a dangerous thing for a body of men to go down to the garrison at night, so that I said, "Mr. Connor, you will take charge of these people and hold them down. I am going down to the post." My brother said, "Are you going by yourself?" I said, "Yes."

Q. Right there; before going to the post, did you address the people there?—A. I did, afterwards.

Q. All right; pardon me.—A. My idea was to crawl down as best

I could and get within hailing distance, and as I was acting post surgeon and mayor of the town, and well known in the garrison, they would respect me.

Q. That is, to get into the post?—A. To get into the post. I wanted to get into communication with the commanding officer. I thought that if I could get down behind the trees I could call out, "This is Mayor Combe, and I want to see the officer of the day." They remonstrated with me and said that it was too dangerous, so that I thought I had possibly better not go. Everybody was clamoring and standing around there with these guns, and saying, "Let's go down to the post," and, "Let's go down and do those fellows up." I don't remember the exact language they used, in the excitement of the moment, and I saw that the excitement was getting intense, and Judge Parks was standing to my left, and I said, "Get me a box or something to stand on." and they brought me, I do not remember whether it was a box or a barrel, and I got up and I appealed to the people, first, as an ex-army officer, and I told them, "I have served with those troops and I know them to be as efficient troops as there are in the world. They are splendidly armed, and if you go down there, many a valuable life will be lost. Besides that, you are within the law. Remain so, and we will get justice." I spoke in that strain for a few minutes. Then I told them that as mayor of the city I would arrest any man that remained on the street. I then went to several of the most prominent citizens there, bank cashiers and bank directors and county clerks, and so on, and I said, "Gentlemen, you will assist me in dispersing these people here;" and in groups we got them away; very reluctantly, but they got away. There remained on the streets the police officers and several of the citizens whom I requested to remain. I told them to arm themselves, if they were not armed. I then said to my brother, "I want to speak to Major Penrose. Go to the telephone and see if you can not call up the quartermaster's department, and say that I want to communicate with the major at once." He started up the street, turned to the right, going out Twelfth street to the telephone exchange, when we heard some voices. Doctor Combe met Captain Lyon with about 60 men, and halted him. Doctor Combe said, "Who goes there?" He answered, "Captain Lyon, with a detachment." He said, "This is Doctor Combe." Captain Lyon said, "Is that the mayor?" My brother said, "No; the mayor is around the corner and wants to speak with the commanding officer." So Doctor Combe then put himself at the head of the detachment, with Captain Lyon, and they went around the corner in front of the Ruby saloon.

Q. The Ruby Saloon?—A. Yes, sir; Tillman's saloon, on Elizabeth street.

By Senator FRAZIER:

Q. Had you before that entered the Ruby Saloon at all?—A. I do not remember. I remember ordering that the saloon be closed. Some people say that I did go in, but I do not remember.

Senator WARNER. We will come back to that.

Senator FRAZIER. Yes.

A. (Continuing.) Captain Lyon came up, and I walked up and spoke to him, and I said, as near as I can remember, that the negroes

had shot up the town. And he said, "Well, we do not know about that." Just then I was standing almost in the gutter and Captain Lyon was coming almost in the middle of the street, and I heard two or three of the negro soldiers at the rear of the detachment call out, "Captain, they have got guns," or "He has a gun." I ran right back towards them and got between them—I didn't get between them then, but I got between them afterwards. On the way down on the flank of the company I called out, "Those men are officers; those men are officers." The men stood there with their arms.

Q. By "officers" you meant the police officers?—A. Yes, sir; and Lyon came behind me and said, "Get back in the ranks." They did not obey the first command, and he said, "Damn you, get back in the ranks." Then they fell back, slowly; and we stood talking a few moments, and then I said, "Captain, I have got to see Major Penrose." He said, "All right; you can go into the post with me." I told the chief of police to stay where he was and keep everything quiet and I would get back as soon as I could. Dr. Joe Combe and myself then went into the post with Captain Lyon and his men. Just when the detachment stopped and the iron gate was being opened we stopped for some reason just before going in the gate; whether it was then or just after we got in the gate, I do not remember, Captain Lyon said, "Combe, have you seen Macklin?" I said, "No; I have not seen him."

Q. Macklin?—A. Yes, sir.

Q. That is Captain Macklin?—A. Yes, sir.

I said, "No, I have not seen him." He said, "We can not find him in the post anywhere, and we are afraid that he has been done away with in town." I said, "Oh, bosh! That is nonsense." Then we went through the iron gate into the post. Major Penrose was just within the sally port, or gate. He walked towards me and I walked towards him, and we shook hands, and I was a little excited, and I told him, "Major, this is a terrible outrage. Your men have shot up the town, have killed one citizen, badly wounded the lieutenant of police, killed his horse, and generally shot up the town. The citizens are very much excited and this is terrible," or something to that effect. He said, "Major Combe, I can not believe it. It has been reported to me that the citizens have fired on the post." I said, "No, sir; that is not so." We were in conversation some little while. I do not remember the details now. I said to him, "Major Penrose, you will have to keep your officers and men in the post. They can not come into town under any circumstances, and I hope that you will issue that order, because the people are very much excited and very much enraged, and if any of your men come in, why, it is dangerous"—or, I do not remember whether I used that expression—"I will not answer for their lives." At any rate, I impressed upon him strongly that it would be dangerous for his officers and men to go into the town. He said to me, "Major Combe, I shall certainly cooperate with you in this respect. I shall issue an order that none of my officers or men shall go into the town. You issue an order likewise that none of your citizens come into the post. I do not want them in the post. I do not want any of them to come into the post except yourself. You are allowed to come in here, and I will issue that order at any hour of the day or night." He did issue that order. Shortly after that Captain Macklin walked up; it must have been a

little after 12 o'clock. Captain Macklin walked up to Major Penrose and saluted him, and said, "Sir, I report." Major Penrose said, "My God, Macklin, where have you been? We have been looking for you everywhere." Macklin said, as near as I can remember, "I have been asleep in my quarters." Penrose said, "Why, I have sent two orderlies to look for you, and they could not find you in your quarters. I do not understand this." He then said, "Captain Macklin, you will take command of your company and relieve Lieutenant Lawrason." Lieutenant Lawrason was along the wall. Captain Macklin saluted and went to his post. We spoke a little longer, and Major Penrose said, "Combe, I want to see you in the morning." I said, "All right, sir, I will be down."

Q. Before proceeding, let me ask you: The next morning you spoke of meeting Macedonio Ramirez, the policeman?—A. I have to say what followed as I went down.

Q. All right; go ahead.—A. My brother and I then went out of the garrison, up Elizabeth street—that is, from the post. When I got about the Miller Hotel some one came up to me and said, "You are wanted at the Ruby Saloon; the justice of the peace wants you." I said, "Why does he not send for the city physician? That is his duty." He said, "He can not be found." I went on down to the Ruby Saloon, and the justice of the peace was there with two or three other people. I do not remember who they were—his constable and others—and he said that he wanted me to examine the body of a man commonly known as Frank Natus. I walked in and went out in the courtyard, and there was Natus lying on the ground with his feet towards the alley entrance of the Ruby Saloon, not very far from the cistern. He had his clothes on, and he had a pistol, a small pistol, something on the style of a .38 Smith & Wesson or a .32 Smith & Wesson. It was either lying alongside of him or stuck in the waistband of his trousers, I do not remember which. I then proceeded to open up his clothes and found that he was shot through the body; that there were two orifices, one in the right and one in the left side of the body, and from the appearance of the orifice of entrance and the orifice of exit—what I supposed to be the orifice of entrance and the orifice of exit—it was my opinion, and I so gave it—I found him dead—that he came to his death from a high-power bullet. Everything was in excitement at the moment, and it was my duty to get out and get my men together, and so forth, so that I made a hurried examination and found no other wound on him. Then I left there and went on about my duties. I walked out of the saloon and went away.

Q. When in the saloon did you see Preciado?—A. I do not remember Preciado. It was an hour and a half after the shooting, or more, so that I do not remember whether I saw him there or not. He was about there a long while after the shooting. I do not remember whether I went with Dr. Joe Combe, but I went to Putegnat's Pharmacy, and there I found the lieutenant of police, Joe Dominguez. I saw that his hand was pretty well torn up; the phalanges were hanging over that way [indicating], and it was badly shattered, and he had an improvised bandage on it and a tourniquet to control the hemorrhage; and I helped Dr. Joe Combe to bandage him up, just to get him home, and we put him on a cot and improvised a litter

and moved him to his house; and with that Doctor Combe postponed the amputation until the following morning. I left and went on down town after we had made Dominguez comfortable at home. Oh, yes; Dominguez told me this: I said, "Joe, I want you to tell me what you know about this." He said, "All I can say to you is that I was coming along on my horse"—he did not go into any details. I asked him the direct question, "Who did the shooting?" He said, "The negroes." Then I asked him, "Did you see them?" He said, "I was on my horse, and I rode towards the alley." What expression he used I do not remember; I do not remember as to what he said, exactly, but he said, "I saw them and rode on up the street in a trot, and they continued firing on me, and my horse fell at the corner of Wreford's place, and I fell and my leg was caught under the horse, but I extricated myself. I felt that I was shot and grabbed hold of my right arm and walked on up the street to the drug store." I said, "Where were you fired at from?" He said, "From the corner of the Miller Hotel alley." I asked him, "Did you see that they were soldiers?" He said, "Yes, sir." This was at his house, after he was wounded. I wanted to find out where the scene of the firing was, so as to go down there, so that this was all in a few moments, and I left him and walked down Elizabeth street to the Miller Hotel corner and then turned to where he had said they had fired at him from. I was right at the mouth of the alley when I stepped on something that gave a metallic sound. I stooped over and felt down on the ground and picked up a cartridge or two—picked up what I thought to be a cartridge or two—and looked at it. Then I felt around again and picked up some more. Then I found one clip and one ball cartridge, and I think six or seven shells. All told, I think there were eight shells, with a clip.

Q. Right there, Doctor, when you say "one ball cartridge," what do you mean by that?—A. I mean a loaded cartridge.

Q. A loaded cartridge?—A. A loaded cartridge. That is a common expression.

Q. What did you do with those cartridges?—A. I went to the light to look at them, and saw, from what I had seen of these shells before, that they belonged to the Springfield rifle. I thought they did. I immediately came to that conclusion.

Q. And the clip, also?—A. Oh, yes. The cartridge fitted into the clip perfectly.

Q. Yes.—A. I put these in my pocket.

By Senator OVERMAN:

Q. Did you notice whether they had been freshly fired?—A. No, sir; that is one thing I neglected to do. It would have been a very easy thing, because if they had been fired only two hours before they would still have the sulphurous odor, you know, after you explode a cartridge. I think you could have still detected it.

Q. But you did not notice that?—A. I did not notice it. I was satisfied. As far as I was personally concerned, I felt that this had been done by soldiers.

By Senator WARNER:

Q. This was about what time, now?—A. This was very nearly—it must have been 2 or 3 in the morning.

By Senator OVERMAN :

Q. I understand you to say that you were satisfied that the soldiers had done this, or you would have made a more critical examination, to see if these shells had been freshly fired?—A. I did not think anything else about it. I walked back. It must have been sometime after 2 o'clock when this thing happened. I walked back to Elizabeth street and stayed about the Miller Hotel porch. I thought that I ought to stay around a bit longer. I dozed a little in a chair and then walked down the street and met the chief of police and told him to look out for things, and that I was going home to get a little rest. Everything was very quiet at that time, and Major Penrose had assured me that he would control the situation down there, so that I felt safe for the rest of the night.

By Senator WARNER :

Q. The town was very quiet?—A. Very quiet, sir. I ordered all the saloons closed and I went home. I did not take my clothes off. About 5 o'clock I got up and I came down the street and I stopped at my office, and came slowly down the street. It must have taken me half an hour to get up to the Miller Hotel corner. I went to where I had picked up these shells, and there I was told that other people had picked up shells all around the intersection of the alley and the street, right there at the Miller Hotel; that quite a number of people had picked them up, and that also back in the alley towards the post they had picked them up. I told Mr. Connor to locate these people and gather these shells together. I wanted to keep them.

Q. That was Mr. Connor, your chief of police?—A. Yes, sir. Some one said then that they had shot up Tate's house, so that I went around to Tate's house; but I found that it was not Tate's house, but Starck's house, that was shot up. Just there, in front of Starck's house, Mr. Starck happened to be coming out of his house on the porch, at that time, and he said, "Good morning, Mayor;" and I said, "Good morning, Mr. Starck." He said, "That was a pretty tough affair last night." Then we walked out to the edge of the pavement, and there we noticed some shells lying right at the edge of the gutter, and we picked them up. I suppose that we picked up about the same number of shells; I could not say.

Q. What time in the morning was this?—A. That was 5 o'clock in the morning, I suppose. I have stated before that it was 6 o'clock, but I think that it was earlier, now. It was after 5 o'clock.

Q. Those shells were exploded shells?—A. Yes, sir; as well as I remember, they were exploded shells. I do not remember.

Q. Proceed, Doctor.—A. I then walked out into Elizabeth street, and occupied myself with talking to the people until 7 o'clock—about 7 o'clock—when I went into the post to discharge my duties as attending surgeon at the post. My brother was with me, in my buggy. As we turned to the right, in front of D Company quarters, going towards the administration building, I saw what I took to be a company of soldiers in front of the barracks, some of them cleaning their pieces. I saw one or two officers.

Q. Right there, Doctor—when you say "cleaning their pieces," do you mean actually cleaning them, or testing them?—A. To me it looked as though they were cleaning their pieces. They were going

through the motions. They had rags on the steps, and I saw one or two of them cleaning their pieces and one or two of them had rags in their hands, and the natural conclusion was that they were cleaning them. It may have been some kind of an inspection. I am simply saying what I saw. There were two officers there, and I have since stated that I thought they were Major Penrose and Lieutenant Grier. I am not sure; I am not positive whether they were the officers I have mentioned. I think they were. I then went around to the hospital, in front of the administration building; I went down the officers' row to the hospital.

By Senator BULKELEY:

Q. What time in the morning was this?—A. It must have been very nearly 7. It was after 6 o'clock, and very nearly 7, probably.

By Senator FRAZIER:

Q. Were you riding, Doctor, or walking?—A. I was driving in my buggy. I went to the post and attended to my duties—they were very light that morning—and then I came back. Then I went downtown.

By Senator WARNER:

Q. Did you have any talk with Major Penrose when you were in there in the morning?—A. No, sir.

Q. Proceed.—A. I went downtown, and one of the first men I met was Major Armstrong. He is one of our most prominent Republicans there—a man of prominence—and there was so much excitement that he agreed with me that it would be a good thing for me, and no one else, he said, to call a mass meeting of the thinking people of the town to investigate this matter—to start the investigation—and at the same time to allay the feeling which was then existing and the excitement. I mentioned it to other citizens, who agreed with me, among whom was Mr. Goodrich, an old Grand Army man, a veteran of the civil war. So I set to work then to call the better class of citizens to meet me in the Federal court-house at 11 o'clock that morning. There were one or two citizens on the street who talked in a manner that I did not like. One of them has been before you as a witness.

By Senator FORAKER:

Q. Give us his name.—A. That is Mr. Billingsley. He has been or is about to be a witness before you; I do not know which.

Senator OVERMAN. He has not been examined, but he is here.

The WITNESS. He was excited, and I said, "I do not want any of this talk; I will arrest anybody who keeps it up."

By Senator WARNER:

Q. He was excited?—A. Yes, sir; he was excited. He was a good man.

Q. He believed, as you said, that the negroes had shot up the town?—A. Yes, sir. He was talking in this way, and I said, "Stop that; it will not do any good. It is going to be investigated, and if they did do it we will get the law on them; and I want this thing stopped, and if you do not stop it I will put you in jail." Then I met Mr. Wreford, and he was elocuting the same way, and I laid the

law down to him; and pretty soon the citizens found out that was the best course to pursue. According to agreement with Major Penrose, I went into the post and went to the administration building.

By Senator OVERMAN:

Q. What time was that?—A. About 9 o'clock. Major Penrose was then in conversation with United States Commissioner Creager, whom he had invited to come to the post to talk this matter over with him. I saw that they were talking over this outrage, and I felt that I was not intruding—I knew that I was not, because Major Penrose wanted to see me—and I joined in the conversation, or rather I waited until Creager was through. I do not remember what he said, but I almost immediately took out these cartridges that I had in my pocket—this ball cartridge and the clip and the empty shells—and I put them on Major Penrose's desk, and I said, "Major Penrose, what do you think of that for evidence? Your men did this." He looked at them carefully, examined them, and he said, "Combe, this is almost conclusive evidence; but who did it and how they did it I do not know." Those are almost his words. I said, "Well, I am convinced." Then we talked for some little while, generally, over the matter, and I told him that we were going to have a meeting down there, and he said that he would be glad to meet the citizens at any time and see what we could do towards ferreting out the matter. I then went downtown. I do not remember whether Creager went with me. I think he stayed there.

Q. You and Major Penrose and the officers of the regiment were on intimate terms?—A. My relations with Major Penrose were most cordial.

Q. You were the contract surgeon, as you have stated, at this time?—A. Yes, sir; I was just acting at that time, temporarily. I did not have a contract.

Q. Just temporarily?—A. Inasmuch as the officer there, Captain Edger, I think it was, was ordered away, and I had had some military experience, the chief surgeon of the department, who knew me intimately, wrote me and told me to take charge of affairs. Captain Macklin I knew well. We served in the same brigade in the Philippines. The other officers I had just simply met, but we were on friendly terms.

By Senator SCOTT:

Q. Doctor, when you went in the grounds of the post, about 7 o'clock, I understood you to say that you saw them cleaning, or what appeared to be cleaning, their guns?—A. Yes, sir; three or four of them.

Q. Do you know whether or not the companies had already been ordered out for inspection before you went in?—A. No, sir; I do not know anything about that, sir.

Senator SCOTT. That is all.

By Senator WARNER:

Q. The company was drawn up there, was it?—A. Yes, sir; the company was drawn up, at rest, and the men were handling their pieces.

By Senator FORAKER:

Q. You saw two commissioned officers with them?—A. Yes, sir; that is my recollection.

By Senator WARNER:

Q. Now, proceed from where I broke in on you last.—A. I went down in the town then.

Q. This was after the 9 o'clock visit that you are speaking of?—A. Yes, sir. I said to my brother, "You take charge of our affairs; I will have no time for any business whatever. I am going to occupy myself entirely with this matter." I went about the town talking with the influential and prominent citizens, and the hour of meeting came about, and we came to the Federal court room. I took the chair and I addressed the people. I told them what had occurred last night, as they knew it by this time, and went on to say that I agreed with them that unquestionably it had been done by some ruffians of the battalion now stationed at Brownsville, but that we should not condemn all the men and all the officers; that so far they had deported themselves as good citizens, and I appealed to them and requested them to continue to do so; that we would appeal to the highest authority in the land, if necessary, but under no circumstances to take the law in their own hands, because it would lead to trouble and maybe the ruination of Brownsville. I spoke to them along those lines because there were people then in the court room—it was crowded—who were very much excited and wanted rather to wave the bloody shirt, and all that kind of business.

Q. What do you mean by "waving the bloody shirt"—taking revenge?—A. Yes, sir.

Q. You said that they had theretofore conducted themselves as good citizens. You meant by "they" the parties whom you were addressing at the time?—A. Yes, sir; that is what I meant. I then said, some one may have suggested, because there was some little talking about the room—that a committee be appointed. That motion was made and properly seconded. The motion was made that the Chair should appoint the committee. I said that I would not assume that responsibility, but that I would select three or four of the most prominent citizens to appoint the committee. I appointed Capt. William Kelly.

By Senator FOSTER:

Q. What is his occupation?—A. He is president of the First National Bank. I appointed Mr. E. H. Goodrich, an old Federal soldier and a Republican.

By Senator WARNER:

Q. Captain Kelly is an ex-Federal soldier also?—A. Yes, sir; he has a fine record. Yes; Captain Kelly is an ex-army officer of the civil war. I appointed Mr. William Ratcliff.

By Senator FRAZIER:

Q. What is his business?—A. He represents a great deal of capital down there. He is a director in the First National Bank and is president of the Brownsville Land and Irrigation Company. I

appointed Mr. James A. Brown, one of the largest landowners in southwest Texas. These gentlemen I instructed to proceed at once to appoint a committee. It was decided to appoint a committee of fifteen.

By Senator WARNER:

Q. They were to select the other members of the committee, were they?—A. Yes, sir.

Q. Proceed.—A. While I can not give you the personnel of that committee at this moment, it consisted of the very best men that we had in our community.

By Senator FOSTER:

Q. Did you not have as good men in your community as any other community in the State of equal size?—A. Yes sir.

Q. As good men as any other town?—A. Yes, sir; any other city.

By Senator WARNER:

Q. Continue right along, Doctor.—A. After the committee was appointed, it was very nearly luncheon time, and several of the members wanted to go home, but Mr. Kelly said, "No; there is no time like the present. We will go at once to see Major Penrose."

Q. Who said this?—A. Captain Kelly.

Q. Was he chairman of the committee?—A. Yes, sir.

Q. Proceed.—A. We went at once to the garrison. When we got to the small gate, to the left of the main entrance, the soldier stopped us, but I walked up to the sentry, or to the noncommissioned officer—I think he was a noncommissioned officer—of the guard; I said, "I am the mayor of the city, and Major Penrose has said that he would give you instructions to allow me to come in at any hour of the day or night with such citizens as I saw fit to bring. This is the citizens' committee coming to see Major Penrose." He said, "Very well, sir," and we walked over towards the administration building and found Major Penrose in his office. There were two other officers present, as near as I can remember. I stated in the Penrose court-martial that I did not remember who they were, but I have been thinking that over since then, and I think one of them was Captain Lyon and the other was Lieutenant Grier, and there may have been others there. The introductions took place between the committee and the officers—those who did not know each other. I think I made a few remarks. Then Captain Kelly, as chairman, addressed Major Penrose and went into the matter briefly. He said, "Major Penrose, this is a terrible affair." I am giving you this as near as I can remember. Then he went on to relate just exactly what I have said before; that the negroes had attacked the town; that the lieutenant of police had lost his arm and a man had been killed; that the lieutenant's horse was killed, and the town generally shot up; that we were under great excitement; that we all felt that the negro troops had done this. Major Penrose listened very quietly, and when Captain Kelly got through, I had been collecting some more shells—not myself, but they had been given to me, other shells had been turned over to me—and I took them out.

Q. Other shells had been turned over to you in addition to those that you had turned over in the morning?—A. Yes, sir; I took them out and put them on the table, and I said, "Major Penrose, your men

did the shooting; here are the shells, and no one else has those arms or that ammunition;" and he said to me, what he said in the morning, "I am afraid that is true. Those are not his exact words, but that is the substance of what he said. He said, "Gentlemen, I do not understand this at all. I do not know how my men could have done it." With tears in his eyes, he said, "I would give my right arm to find out the guilty parties." He said, "I will suffer as much as anybody—more than anybody—in this matter. It is a terrible thing to me. My reputation is at stake." Then there was conversation going on, back and forth, between the members of the committee and Major Penrose. I do not remember all the questions that were asked, but two of them impressed me. One member of the committee asked Major Penrose, "Major, you say that it was reported to you that the citizens shot up your post, and if it is so, are there any physical signs. are there any bullet marks anywhere?" Major Penrose said no, that there were none; that there was one windowpane broken, but that was evidently not done by a projectile of any kind; that is, a fire-arm projectile. Then a citizen said to him, "Then you came to this conclusion regarding these things without an inspection of the guns last night, you came to that conclusion simply from the report made by your noncommissioned officers, and not from your personal knowledge?" He said, "Yes; from the report of the noncommissioned officers." Those are the two questions that I remember that were asked by the committee, and they were answered in that way. Major Penrose then stated that he certainly would do everything in his power to ascertain if his men did it, who they were, and he would begin the investigation at once, and that he would cooperate with the citizens' committee; that he would be glad to do anything that he could to help the citizens' committee in their investigation. After talking for some little while we left and went back to the town. The afternoon was taken up by the committee in making up a programme, I suppose, as to what they were to do. I was busy with my executive work, and while I was a member of the committee, I was in the committee room, backwards and forwards, but very seldom for any length of time.

Q. It was rather a critical time there, was it not?—A. Oh, yes, sir; there was a great deal of excitement; and I recognized the fact that I had to surround myself with the calmer men, the thinking men, of the town, to keep down this excitement, because, as I have always thought, one shot or two would have caused a great deal of trouble. The committee then got to work and begun its investigation, I believe, the following morning; that is, they begun to call witnesses before them. About the third day I began to get offers of men and arms, not only from Texas, but from Arizona and New Mexico. These in every instance I refused. Other citizens also got offers of arms and men to come down and help the citizens of Brownsville, but they were refused.

Q. That is, to help them, you mean, to protect themselves in case of an attack?—A. Yes, sir.

Q. Proceed with your narration.—A. Well, during that day or the following day, I do not remember which, a bandolier was given to me, and some more empty shells, and I was told that it was found by one Cerda.

By Senator FRAZIER:

Q. Was he a policeman?—A. He had acted as a policeman. He was not on the regular force.

By Senator BULKELEY:

Q. What was his business?—A. I do not know. He is a Mexican. I do not know what his occupation is.

By Senator FRAZIER:

Q. A vegetable man, or something of the kind?—A. Something of the sort; I do not know what his occupation is.

By Senator BULKELEY:

Q. I think that has been testified to.

By Senator WARNER:

Q. He did any kind of work that he could get to do?—A. Yes, sir. So far as I know he is an honest man.

Q. Go on.—A. I was told that one man by the name of Madison and another by the name of Houghton had picked up some shells, and I went to them, and they said yes; they had.

Q. They were young men?—A. Yes, sir; they lived right at the corner of the Miller Hotel alley, diagonally across, in a brick house diagonally across from the Miller Hotel. They said, "Yes; we found these shells out here, scattered all around." This was several days afterwards, in the Houghton case. I said, "Well, why did you keep them?" He said, "I want to keep them as souvenirs, Doctor." I said, "Well, we need them for something more than souvenirs." He gave them to me, and Madison gave me his, too.

By Senator FOSTER:

Q. How many of them were there, Doctor?—A. I do not remember, sir. There was a good double handful.

By Senator WARNER:

Q. The character of those shells was the same as the others?—A. Exactly.

Q. Were other shells turned over to you by other parties?—A. Mr. Moore said that he gave me a bullet, I believe. Let me see, there was Madison, and Houghton, and I think Felix Calderon gave me some. There was Starck, Madison, Houghton—

By Senator FRAZIER:

Q. Did the chief of police give you some?—A. He turned the bandolier over to me, and some shells, also.

By Senator OVERMAN:

Q. Did Major Penrose tell you that the same shells had been found at the mouth of the alley by Captain Macklin?—A. Oh, yes; I have not come to that yet.

Q. Proceed. Do you think of any others who gave you shells? There were quite a number turned over to you—shells—were there not?—A. Yes; I can not remember all of them.

Q. What did you do with them?—A. I gave them to the chief of the police; and by the way, some of those shells were stolen as souvenirs. That is, they were not misplaced, because they were locked up in the desk of the chief of police at the City Hall, and

there were a great many more than we sent to this committee. I do not know what ever happened to them. I then went to the district attorney, Mr. John I. Kleiber, and I said to him, "What am I to do with these things?"

Q. He is the district attorney of the State court?—A. Of the State court. He said, "You will get your instructions from Judge Welch;" and Judge Welch instructed me, or ordered me, to give them to the sheriff of the county and get a receipt for them, which I did. When Mr. Purdy and Major Blocksom came to Brownsville in the matter of this investigation, those shells and that bandoleer were turned over to them.

Q. Right there, I do not know what the facts are; did you mark these shells?—A. I did not mark any of those shells, I am sorry to say; but the bullets that were found—the steel-jacketed projectiles—were marked when they were sent on, and they were extracted from the different buildings in the presence of reputable citizens, who have given their affidavits. About that time Captain McDonald, of the State Rangers, appeared upon the scene. As mayor of the town I was one of the first men that he met, and he felt, and so expressed himself, that we were rather slow in our investigation. I told him that we were doing the best that we could, and we did not think any body of citizens could be doing more than we were doing at the time to get at the bottom of the matter. He then had a meeting with Major Penrose, which I did not know anything about, and started an investigation along his own line.

Q. An independent investigation?—A. Yes, sir.

Q. That is McDonald?—A. Yes, sir; along his own lines. I felt that he was rather too active, and took that stand; that the outrage was one that was a great one and the investigation should be slow and deliberate. We had a meeting in Judge Welch's office. Those present were Congressman Garner, Mr. Wells, Judge Welch, Mr. Kleiber, Captain McDonald, and myself. Captain McDonald at that meeting said that the guilty men were down in that post, and that they ought to be apprehended, and that he had the authority of the governor, and he was going to do it, or something to that effect. Mr. Wells is one of the most prominent men in that section—the most prominent lawyer. He said, "McDonald, I am a friend of yours, but you are only a Ranger captain, and if you keep along the way you are doing you are going to precipitate us into trouble. You are zealous, you are a good officer, and you think you are doing right, but if you attempt to interfere with those soldiers down there, this matter will break out anew and we will lose a great many lives here. You must remember our wives and children." McDonald was very indignant. He felt that he could cope with the situation, and that he could find these men. Judge Welch thought that while McDonald was a good officer and had proven that he was—and there is no question that he is—that he was overzealous and that it was dangerous for him to hold this bench warrant, and Judge Welch said, "I am going to withdraw that bench warrant from Captain McDonald;" and he said, "Doctor Combe, you and Mr. Kleiber come with me." We went down into the hotel office, or lobby. Captain McDonald was out in front of the hotel, I think, talking. We finally went in, or he was in the hotel office, and there Judge Welch addressed one of the last addresses that he ever made, for he was killed shortly afterwards.

By Senator WARNER:

Q. He has died since then?—A. Yes, sir.

By Senator FORAKER:

Q. He did what?—A. He was killed a few weeks afterwards in another county. Judge Welch told McDonald that he recognized the fact that he was a good officer, but that he felt that he was over-zealous, and that he would have to withdraw that warrant. I do not remember all the conversation, but they got a little excited—McDonald got excited. Welch was a one-armed man, a man about my size—a small man—and he said, "You will return that bench warrant to me," and he did.

By Senator WARNER:

Q. Doctor, returning a little, did you examine the character of the wound of this lieutenant of police?—A. In a rapid way. Everything was excitement. I saw that his hand was torn all to pieces, and I do not remember where the ball went in; I can not tell.

Q. Did you afterwards examine it? I do not know whether you did or not.—A. No, sir; because you must remember that I took this man home then and left him.

Q. You had nothing to do with it afterwards?—A. With the amputation?

Q. Yes.—A. No, sir.

Q. Right there, let me ask you about your lieutenant of police. How did he stand, as far as you know, with every man, woman, and child in Brownsville?—A. I will state very positively that his character as a citizen is excellent, and as an officer, splendid.

Q. As a fearless, courageous officer, how did he stand?—A. One of the most fearless that I have known.

Q. What do you mean by that, "One of the most fearless?"—A. I mean that he has always discharged his duty in a calm manner, without fear, and promptly. I can cite one instance.

Q. You may.—A. This is of record in our town. He was assistant jailer in Brownsville. The jailer was overpowered, his pistol was taken away from him and a jail delivery took place, in which two or three—I do not remember how many—of these criminals succeeded in getting away. Dominguez rushed up, and, single handed, arrested all the rest of those prisoners who were getting out of that jail and shot two of them. I think he killed one. Some of the prisoners were armed.

By Senator FRAZIER:

Q. Can you state when that was?—A. I can not tell you the year, Senator, but it was back in the seventies. He has been a custom-house officer, and I think he is a Republican. He has been a custom-house officer for many years, and discharged his duty very satisfactorily. He has testimonials to that effect.

By Senator WARNER:

Q. You say those prisoners were armed when that killing took place?—A. Yes, sir.

Q. I do not care about going into the details of it.—A. Yes, sir.

Q. That is a matter of common tradition?—A. When I said that I thought that he was a Republican, I mean that as being in connection with his being a custom-house officer. It was under a Republican Administration.

By Senator OVERMAN :

Q. What is his character for truth?—A. Good ; splendid.

By Senator WARNER :

Q. Do you remember one policeman having his hat shot that evening?—A. I do not remember whether his hat was shot, but he says so.

Q. He said that it was knocked off when the soldiers fired at him.—A. Yes, sir ; I remember that.

Q. Do you remember seeing the hat?—A. Yes, sir ; I had it in my hand ; I never saw it before, but I remember it distinctly. I thought it was the hat of the lieutenant of police, but this man came up to me and said, " No, sir ; that is my hat."

Q. Who was that?—A. Macedonio Ramirez.

By Senator FRAZIER :

Q. Did you see the hole in the hat where the bullet had penetrated?—A. No, sir.

By Senator WARNER :

Q. Your attention was not called to it?—A. It was at night, and my attention was not called to it.

Q. He did not call your attention to it?—A. I know that he did not, because he did not have the hat.

By Senator BULKELEY :

Q. Where did you get it?—A. It was picked up somewhere on Thirteenth street, I think it was.

By Senator OVERMAN :

Q. Do you know anything about a cap that was picked up on the street?—A. I saw a cap that was said to have been picked up on the street. That is all I know.

Q. What kind of a cap?—A. It was a regulation cap, blue, with two bands of light blue around the band, and the regulation visor.

By Senator FRAZIER :

Q. Do you mean the regulation army cap?—A. Yes, sir.

Q. A soldier's cap?—A. Yes, sir ; but I do not know anything about it.

By Senator BULKELEY :

Q. Did you retain that cap?—A. No, sir ; it was never in my possession.

Q. Did you see it?—A. Yes, sir.

Q. Who had it?—A. It was before the citizens' committee.

Q. Do you know who had it?—A. The man who found it was a man by the name of Starck, I think.

Q. The same Starck that lived out on Washington street?—A. His brother.

Q. His brother?—A. Yes, sir.

By Senator WARNER:

Q. That is not the Starck who was here?—A. No, sir; his brother.

By Senator FRAZIER:

Q. Do you know where he found it, Doctor?—A. He found it down towards the garrison.

Q. In the alley?—A. No, sir; farther out; I could not tell you exactly where. I understood that he found it down towards the wire fence.

By Senator WARNER:

Q. When you say farther out, by the wire fence, you mean up, what we are pleased to call east?—A. Yes, sir.

Q. Calling Elizabeth street and Washington street north and south?—A. Yes, sir.

Q. And the wire fence commenced up there, where?—A. The wire fence commences, as near as I can remember, near Adams street; down that way. I could not tell you positively.

Q. Near Adams street?—A. Yes, sir; somewhere there.

Q. Where Adams street comes into the garrison road?—A. Yes, sir. I can tell you, too. Yes, sir; it is right at the head of Adams street, about.

Q. There is a gate there, is there not?—A. No, sir.

Q. Where is the gate up there, Doctor?—A. Why, Senator, the street that that gate opened on is not on that map.

Q. It is still east of that, is it?—A. Yes, sir; it is still east of that.

Q. The street east of Adams street is Jefferson street?—A. Yes, sir; they follow along in Presidential order.

Q. You start with Elizabeth street and then you go on from Elizabeth street with the names of the Presidents?—A. Yes, sir. That gate used to be where that road opened into the town, exactly [indicating on map]. The street is not there. It is east of Adams street.

Q. But you, of your own knowledge, know nothing of this cap?—A. Nothing whatever, sir.

By Senator BULKELEY:

Q. Or what became of it?—A. I think Captain McDonald got hold of it.

By Senator FORAKER:

Q. Let me ask a question, there.—A. Yes, sir.

Q. You say that cap was found up there?—A. No, sir; in that part of town, I understood so.

Q. I understood you to say that it was found somewhere up about the foot of Jefferson street?—A. No, sir.

Q. Where was it found?—A. In the eastern end of town, near the garrison fence—that is what I understood.

Q. That is, as far east as Jefferson street, or farther east?—A. Perhaps farther east; I do not know.

Q. It was not found up in the alley?—A. No, sir.

Q. Or at the point where any of these places were located which were fired into there?—A. No, sir.

By Senator FRAZIER:

Q. Did I understand you to say a moment ago that it was found about the wire fence?—A. I simply remember the words "wire fence" being used in connection with that cap.

Q. Where does the wire fence begin?—A. At Adams street.

Q. Is there not a wire fence around a portion of the post down near the empty barracks, there?—A. Fronting on Fifteenth street?

Q. Fronting on Fifteenth street? The wall does not extend the whole distance, does it?—A. No, sir; the wall extends about to Adams street, and then the wire fence begins, and then runs east and then runs south.

By Senator WARNER:

Q. The last conversation you had with Major Penrose was that forenoon, about 11 o'clock, on the 14th of August?—A. Between 11 and 12.

Q. You continued as post surgeon after that, did you?—A. Yes, sir; until the troops left the post.

Q. You were in the post every day?—A. Yes, sir.

Q. State what you know, if anything, from any of the officers, about shells being found by Captain Macklin?—A. I only know what he said to me.

Q. Very well, what did he say?—A. I think the night before he left I was in his quarters. There were quite a number of officers in there, and I said something about the shells, and he said that he had found some just outside of the garrison gate, or wall. I have always said that he said outside of the gate, but he maintains that he said outside of the garrison wall. Then he walked over to a desk or a cupboard, and took out a handful of shells, and showed them to me, and they were the same as the ones I had picked up. He said that he had found them himself.

By Senator OVERMAN:

Q. Did Major Penrose ever tell you anything about the finding of those shells?—A. I do not remember.

Q. Or whether they had been freshly fired or not?—A. I do not remember.

By Senator WARNER:

Q. Now, you say that that was the evening before Captain Macklin left there. Do you mean that was the evening before—A. The troops left. Before they marched out.

Q. How did he happen to exhibit the shells to you? What was the talk about?—A. Because we were talking about the matter, and I said something about finding some shells.

By Senator OVERMAN:

Q. Did he tell you that he found them all in a bunch?—A. No, sir; he did not say anything about how he found them. I do not remember that he did.

By Senator WARNER:

Q. Returning to Major Penrose, you say you were there every day as surgeon. Did you have a talk with Major Penrose about this shooting afterwards; was it a matter of conversation between you and Major Penrose at other times?—A. We spoke about it almost every time we met.

Q. In any of those conversations after the one on the first night, when he said that he could not believe it, the night of the 13th, did Major Penrose ever express to you any doubt but what it was some

members of the Twenty-fifth Infantry that had done the shooting up of Brownsville?—A. No, sir; it grew on us more and more that the soldiers had done it, and that was Major Penrose's impression, and that of the officers also. It was our sole topic of conversation, to find out who those soldiers were.

Q. In that time did you have a talk with Major Penrose and the others as to what was the best method of finding out who the guilty parties were?—A. He was following out along the line that he had set out for himself, regarding the investigation. He told me that his officers and his noncommissioned officers were doing all they could to ferret this matter out, and they had the men come before them. Of course I am not going to criticize Major Penrose's action or say as to whether I would have done the same thing.

Q. That is not the question.—A. But I think he was doing all that he could at the time to find out.

By Senator FRAZIER:

Q. You think he thought he was?—A. Thought he was; yes, sir.

Q. He thought that that was the best thing to do?—A. Yes, sir.

By Senator BULKELEY:

Q. Did you think that he was doing the best thing?—A. I thought that Major Penrose was doing the best he could.

By Senator OVERMAN:

Q. Do you have any idea what became of those shells that were locked up in Captain Macklin's desk?—A. No, sir; I had no right to ask.

Q. I mean, have you any idea what happened to them afterwards?—A. No, sir.

Q. He had not shown them to Major Penrose?—A. I had not heard of it. He must have shown them to him; but I had not heard of it.

Senator FORAKER. He testified that he showed them to Major Penrose that morning.

The WITNESS. It is natural to suppose that he did, as he was his commanding officer; it is natural to suppose that he showed them to him.

(At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The committee met, pursuant to the taking of the recess, at 2 o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF DR. FREDERICK J. COMBE—Continued.

By Senator WARNER:

Q. Doctor, you have stated your opinion, formed from seeing the shells, etc. The shooting, the shots, the sound of the shooting, did that impress you as to the character of the arms being used?—A. Yes, sir.

Q. You are accustomed to high-pressure guns?—A. When I was in the service, I was familiar with the detonation or the report of the Krag-Jørgensen, which was the arm then used in the service, and it sounded to me very much like the rifle fire which I had heard when I was in the Army.

Q. The Krag-Jørgensen is a high-power gun?—A. Yes, sir.

Q. You have heard the Springfield, when they were in short range practice at the fort there?—A. Yes, sir.

Q. Is the sound the same?—A. Yes, sir.

Q. Similar?—A. Yes, sir.

Q. You had heard those shots in battle? Were you in battle?—A. Yes, sir. I heard, of course, the musketry fire—I call it musketry—the rifle fire, at Santiago. I was in the whole engagement. And I repeatedly heard it in the Philippine campaigns—expeditions.

Q. Were you in your service ever promoted or recommended on account of bravery for any action you were in?—A. I was mentioned in general orders, and recommended for meritorious service under fire, and got my promotion for that.

Q. Where was that?—A. At the battle of Santiago; I was under General Kent. He especially mentioned five medical officers, and I was one of those.

Q. Now, Doctor, during the time that had intervened since the night of the 13th of August, has anything come to your knowledge, as the mayor of Brownsville, or in any way, that would lead you to believe that anyone excepting the colored soldiers did this shooting?—A. Nothing whatever.

Q. If there had been, you would have no objection to telling it, would you, Doctor?—A. No, sir.

By Senator SCOTT:

Q. Doctor, what motive do you attribute that the soldiers had for shooting up the town? What was their motive for doing it?—A. It has been my opinion that these disturbances which they had led up to their doing what they did.

Q. Were you before the grand jury?—A. Yes, sir.

Q. The grand jury did not indict any of these colored men, did it?—A. No, sir; they did not.

Senator SCOTT. That is all.

By Senator WARNER:

Q. It was a fact within your knowledge, was it, that although you may have believed, and were confident, that the members of this troop did the shooting, it was impossible to identify any individual soldier?—A. Yes, sir; and for that reason the grand jury rendered the decision which they did in giving the verdict. They could not identify any individual.

By Senator BULKELEY:

Q. Did the grand jury impart that information to you?—A. I think the charge of the district judge, Judge Welch, would cover that, sir; and I believe the grand jury did impart that. I do not know.

Q. You do not know whether they imparted it to you or not? Does the judge sit with the grand jury?—A. No; no, sir. There was a grand jury.

Q. What I ask was, did any member of the grand jury impart that information to you?—A. No, sir.

Q. Their sessions are supposed to be secret?—A. Yes, sir; secret. No, sir; it was not imparted to me.

Q. It was only a surmise on your part?—A. Yes, sir; a surmise.

By Senator WARNER:

Q. When you say the judge imparted that, you mean in the charge of the judge he said that they would have to find the particular men that did the shooting in order to indict?—A. Yes, sir; it was a very eloquent instruction the judge gave the jury.

By Senator BULKELEY:

Q. Did he instruct them that there was not anybody identified?—A. No, sir; he instructed them as to the outrage, as to what an awful outrage it was, that it had probably been done by such and such men, and instructed them to bend every effort to getting at the bottom of the matter.

Q. Certainly; but he did not instruct them anything about the identity of the men?—A. Oh, no, sir; no, sir.

By Senator WARNER:

Q. As to the identity of the men, that is? I did not ask if he instructed as to certain men, but instructed them that they would have to identify the individual men before they could indict.—A. Yes, sir.

Q. And as to these shells that you had, the ammunition, whatever there was of it, you turned that over to the sheriff?—A. Yes, sir.

Q. Did you see those shells, the ammunition, again, and the bandolier, etc.?—A. Yes, sir.

Q. When did you next see them?—A. I saw them when they were produced before Mr. Purdy and Major Blocksom.

Q. They were then turned over to Mr. Purdy, were they?—A. Yes, sir.

Q. Do you remember the time that the troops left Brownsville?—A. Yes, sir; very distinctly.

Q. What steps did you take then to see that there was no disturbance of any kind?—A. I went to see Major Penrose every day, and made it a point to go down at night and discuss the situation and tell him what I was doing in the matter of keeping the town quiet, and he informed me that he was to leave at a certain time, that he had orders to move his command from Fort Brown, and that he would leave at a certain hour in the morning. I took the whole police force, and thirty or forty special, picked men, men whom I could depend upon, and armed them. I found out from Major Penrose his route of march from the post to the depot, and stationed my men all the way out, telling them if anybody made any demonstration whatever to arrest them, and if they fired a shot in the direction of the troops, to kill any citizen who made any such demonstration. I was very solicitous about his getting out as early as possible after day-break. It struck me that he was moving too slowly, and I sent the chief of police with my compliments, and asked him to come out as soon as possible. His command was at the gate. His transportation had already been sent forward with the property to the depot.

We could see from the Miller Hotel corner, where I was stationed, and we saw the command march to the gate, stop, and then turn

around and go back. I do not remember whether I saw Major Penrose immediately, but I was informed that he had gotten an order from army headquarters, Washington, to hold his command, and not leave Brownsville. Then a day or two afterwards, two or three days afterwards—I am not positive which—Major Penrose informed me that he had gotten orders to move at once, and he was going to move that night. This was late at night. I went into the post and I asked him to permit me to make a suggestion, and he said, "Certainly, Major; what is it?" I said, "Do not go out to-night. It makes it difficult for me, and if any person is unkindly disposed towards your command, and wants to commit an act of violence, they can do it very easily under cover of the darkness." He said, "What time do you think I ought to leave?" I said, "As soon after daybreak as possible." I said, "I will remain on the street and keep things quiet." I then increased the police force, put on special officers, and that night I had, altogether, fifty or sixty men, as I said a few moments ago, picked men. At daybreak I heard the bugle and knew that the battalion was forming, and I got my men and strung them right out Elizabeth street, on either side of the street that Major Penrose said he was going to follow on his way to the depot. I met Major Penrose myself, and placed myself at the head of the command, or near him, at one side. The sheriff had command of one flank of my force and I of the other, with instructions that if any citizen made any demonstration whatever, or interfered with the departure of the troops, he was to be arrested, and if a citizen fired a shot, or anything of that kind, he was to be shot.

Q. This feeling that you have just spoken of was what grew up from the shooting up of the town of Brownsville, was it not; the feeling on the part of the citizens by reason of the shooting up of the town?—A. Latterly; yes, sir. But we can go back to the Evans affair, and the Tate affair, as well. They played an important part in working up this feeling. I marched out with the command to the depot, and saw Major Penrose and his officers get on the train, told them good-by, and saw them away.

Q. As I understand it, you lived in Brownsville all your life excepting the years that you were in the Army and the years that you were at school?—A. Yes, sir.

Q. So that practically all the years of your manhood have been spent in Brownsville?—A. With the exception of the time that I have just stated.

Q. You know the people quite well?—A. Yes, sir.

Q. What percentage of the people of Brownsville are of Mexican descent?—A. At least 75 per cent.

Q. How are they as to being well behaved and quiet and peaceable?—A. They are good citizens and easily handled.

Q. Are you reasonably familiar with the arms that are used? There are a good many people have guns, do they not?—A. Yes, sir.

Q. You may state if you are reasonably acquainted with the kind or character of arms there.—A. Well, the most common weapon there is the .44 or .45 caliber Colt, so far as pistols are concerned. It is a hunting country, a cowboy country, and almost every family has arms. The Winchester rifle, the old Winchester rifle, magazine rifle, which shot the black powder, was the most common rifle, and still

it can be found, especially among the Mexicans. But there are a few Winchester new models there—I mean the carbine.

Q. The Winchester carbine?—A. Yes, sir. Shotguns are very common. Everybody hunts in that country.

Q. Do you know anything of anyone there having a Krag-Jørgensen, or any such gun?—A. I do not; no; but it was the weapon that the Rangers used to use. They do not use it now, but they used the Krag.

Q. That is what was called the carbine?—A. Yes; the Krag carbine.

Q. Was it the Krag carbine, or what was it? Are you sure about that?—A. They used the Krag carbine—they used the Krag ammunition in it. That part I am not so certain about, but I have heard the rangers speak about their Krags. But they are not common there now. They are not armed with them now.

Q. They used to be armed with them?—A. Yes, sir.

By Senator BULKELEY:

Q. What do they have now?—A. I think what they have now is a Winchester, the new model. About that I am not positive.

Q. A Springfield carbine, is it?—A. Not the Springfield; no, sir. Nobody has a Springfield down there.

By Senator WARNER:

Q. You know something of the social features of the life of the people in Brownsville?—A. Yes, sir.

Q. Capt. Dana Willis Kilburn, of the Twenty-sixth Infantry, testified before this committee, and I will read to you from page 1026 of our record what he says about Brownsville:

Q. Now, Captain, there were 6,000 inhabitants there?—A. About that, I should judge.

Q. And of the 5,000 inhabitants your estimate of Brownsville would be that there were only twelve or fourteen families that could pass muster in an ordinary well-governed city?—A. Well, I said that there would be amongst the first-class people, in a good reasonable—

Q. Possibly, being from the West, I do not understand just what you esteem first-class people?—A. Well, I am from the West, too, sir.

Q. What did you mean by first-class people?—A. I mean people that have some refinement at home and who knew what to do on different occasions; people that had some refinement about their homes; that is all.

Q. By people who had some refinement, do you mean people that had a piano in the house?—A. Not necessarily; no, sir.

Q. People that had a common school education—that would be some refinement?—A. I mean people that were gentlemen and ladies.

Q. And people who were church members?—A. Well, that sometimes applies and sometimes it does not.

Q. But I am trying to get at what you mean.—A. I think that I have stated that matter. I mean people that had some of the natural, innate refinement of ladies and gentlemen.

Q. Only twelve or fourteen such families there?—A. Yes, sir; that is all in Brownsville.

What do you say to that, Mr. Mayor?—A. I say that Captain Kilburn has given this committee a most erroneous impression regarding the social status of the people of Brownsville.

Q. You are a college graduate?—A. Yes, sir.

Q. Where did you graduate?—A. I had my academic education at the University of Notre Dame.

Q. Where?—A. At the University of Notre Dame, at South Bend, Ind. I was educated in the North.

Q. You have had some observation, then, to enable you to tell something respecting the ordinary conduct of people of refinement and the ordinary instinct of ladies and gentlemen?—A. Yes, sir; I think so. I am also a graduate of the University of Tulane, New Orleans, La. I am a member of the Association of Military Surgeons of the United States. I am a member of the American Medical Association. I am a member of our State Medical Association, and I am president of the Cameron County Medical Society.

Q. What I wanted to get, Mr. Mayor, briefly, is what are the social conditions in Brownsville?—A. In proportion to the American element there, I doubt whether you would find a more cultured set of people anywhere in our country in a town of that size.

Q. And there would be from two to three thousand of them, at least, of that class there, would you say?—A. No. As I said a short while ago, Brownsville has a population of 8,500 to 9,000 people, and the majority, by far, are Mexicans and Spaniards.

Q. Seventy-five per cent are Mexicans and Spaniards and 25 per cent Americans? That would make 2,000 Americans?—A. There may be a little under 2,000. Of course all the American-speaking people there do not belong to the social element, if I may use the expression.

Q. Well, that is so anywhere, is it not?—A. Anywhere; yes, sir.

Q. How about the Mexicans? Are there not a great many of those, too?—A. Very good people—cultured. The Spaniards and the Mexicans; among the higher classes we have some very fine people there.

Q. So, in short, you estimate a statement of that kind as a slander upon your community?—A. Perfectly so, sir. I would state that our fathers—those who can afford it—send us away to the North, or to colleges wherever they can, and give us an education.

Q. Is it not a fact—let me ask you while I think of it—that when we sent our troops down at the close of the civil war to get rid of Maximilian, and they came back, a great many of the old soldiers located at Brownsville?—A. Yes, sir.

Q. A large proportion of them?—A. Some of our best families are descendants of those old soldiers—officers and men.

By Senator SCOTT:

Q. Testimony has been given here by one witness that two of your policemen jumped over a fence, and a lady hid them in a bathroom. Do you know anything about that, on the night of the trouble?—A. Nothing except hearsay, and the report of the chief of police that Mrs. Leahy saw the men were in danger, and they could do nothing, so that she brought them right into her house.

Q. And locked them in the bathroom?—A. I do not know where she locked them. She took them into her house.

By Senator OVERMAN:

Q. Do you know the general character of Mr. George W. Rendall?—A. Yes, sir.

Q. What is it?—A. Most excellent.

Q. Do you know the general character of the telegraph operator, Sanborn?—A. Yes, sir. He is a good man—an old soldier.

Q. So that if Captain Kilburn says that he has no good reputation in Brownsville he is mistaken about that?—A. Yes, sir.

By Senator FOSTER:

Q. Will you please state the number of houses which were shot into that night, and the inmates of those houses, and the number of shots fired into each house, if you can?—A. I could hardly do that. I will begin by naming the houses that were shot into.

Q. Yes.—A. There is the Cowen house, Garza's house, the Leahy house, the Miller Hotel, Mr. Wells's office, Wreford's office, the rectory, if I may use that expression, of the Catholic Church; I believe Doctor Thorne's house, the Rendall house—that is the building in which the telegraph office is—the Starck house, the lodge room of the Elks, the Tillman saloon, and the Yturria house. I do not know whether I have named them all or not. As to the number of shots, I do not remember now. I could not give it in detail.

Q. Can you state the number of shots fired into the Miller Hotel?—

A. I think there are three shots in the brickwork on the Thirteenth street side and one or two in the alley—the windows that face on the alley.

Q. Did you examine those shots, their points of entrance and of exit?—A. No, sir. That was left to the committee which was investigating the affair.

By Senator OVERMAN:

Q. I think you stated you saw Judge Parks that night. Did he tell you what he saw?—A. No, sir.

Q. You did not have any conversation with him about it?—A. No, sir.

By Senator FOSTER:

Q. In what houses were there women and children?—A. In the Cowen house, in the Leahy house, in Garza's house. That is about all.

By Senator OVERMAN:

Q. And in the Starck house?—A. In the Starck house.

By Senator FOSTER:

Q. And the hotel?—A. And the hotel. There were quite a number.

By Senator OVERMAN:

Q. Mrs. Rendall was in the Rendall house?—A. Mrs. Rendall in the Rendall house.

By Senator FOSTER:

Q. Doctor, you have given the character of the population of Brownsville. Will you state if there was any bad feeling between the citizens and the police or between the Americans and the Mexicans at that time?—A. I can speak positively about the feeling of the police towards the colored soldiers—

Q. No, I am not speaking of that; but how was it as between the citizens themselves and the police?—A. No, sir.

Q. Or between the Americans and the Mexicans?—A. No, sir.

Q. Was there any bad blood or ill-feeling?—A. No, sir; not that I know of.

Q. Was there any disturbance in the town of Brownsville or in the vicinity of Brownsville that would lead either the police or the citizens to shooting up the town?—A. None whatever.

Q. Had there been any unusual excitement between the people or the citizens of the town at that time?—A. None at all.

Q. Was there any cause, of any kind or character, that would lead any citizen, body of citizens, or any class of citizens, to engage in shooting up the town or raiding the town?—A. Positively not, no, sir; not to my knowledge.

Q. You were there, and you had ample opportunity of judging of the condition of public sentiment?—A. Yes, sir.

Q. And you know at that time there was nothing, as between the citizens, that would lead to any outbreak of lawlessness of this kind?—A. No, sir; I do not know of any.

Q. No complaint of any kind had been brought to you, of any bad blood as between the citizens themselves?—A. No, sir.

Q. Doctor, were any of the State Rangers in Brownsville that night, the night of the 13th?—A. I do not think so, sir. They were at Harlengen.

Q. How far is that from Brownsville?—A. About 30 miles.

Q. Was there any ill-feeling between any of the Rangers and the people of Brownsville at that time?—A. No, sir.

Senator FOSTER. That is all.

By Senator WARNER:

Q. Just one question. You spoke of having a letter from Major Penrose?—A. Yes, sir.

Q. You did not have time to go and get that at noon?—A. No, sir. I was going to get it after I got through here.

Q. Will you get that and bring it down to-morrow?—A. Yes, sir.

Q. I do not know that you ever noticed as to the Yturria house, which is the one marked here "No. 7," is it [indicating on map]?—A. Yes, sir; this is the Yturria house, and here is the Garza house [indicating].

Q. Did you ever have occasion to notice the bullet holes in the Yturria house, to examine them?—A. I did not, but I sent the chief of police, and he examined and reported the position of the balls, and I called the attention of Major Blocksom to them when he came down there.

Q. Go on, now, with your statement.—A. I called attention to the fact, as reported to me, that the ball ranged downward, and the theory was established from that that some of the firing was done from the rear porches of some of these barracks.

Q. Just a moment, so that we will understand. The Yturria house is here, on the north side [indicating] of what we have been calling the garrison road; some call it Fifteenth street. There was a high fence there, was there not?—A. No, sir; there is a picket fence, not very high; it is 5 or 6 feet high.

Q. There is a fence there?—A. A sharp picket fence.

Q. When you called the attention of Major Blocksom to the fact that these bullets had ranged down, and must have been fired from the porch, what did he say?—A. I do not remember.

Q. When you say they were fired from the porch of the barracks, do you mean the second story?—A. Yes, sir. It was too high to have been fired from the lower porch, because then the bullet would have ranged up.

By Senator FORAKER:

Q. Now, Doctor, I understood you to say that there was no ill-feeling between the citizens of the town, as between classes. The Mexicans were at peace with the Americans and the Americans were at peace with the Mexicans?—A. Yes, sir.

Q. I understood you to say also that there was no feeling of ill-will on the part of the citizens towards the soldiers?—A. No, sir; not that I knew of.

Q. Particularly not before the soldiers came?—A. That is what I have reference to.

Q. You never heard of any protest against the soldiers coming there at all, did you?—A. To Brownsville?

Q. Yes.—A. The negro soldiers?

Q. Yes.—A. I never did until lately.

Q. You did not hear of anything of the kind at the time?—A. No, sir.

Q. And Brownsville is a place you have known ever since you were born?—A. Yes, sir.

Q. You were born there?—A. Yes, sir.

Q. And lived there all your life?—A. Yes, sir.

Q. And it has been a quiet, orderly community all these years?—A. No; we have had altercations there, just like any other town.

Q. No more than any other town, I understood you to say?—A. No, sir.

Q. Brownsville would compare favorably with any other town in Texas of its size?—A. Yes, sir.

Q. It is no worse on account of being on the border than it would be if it were up in the interior?—A. I think, the conditions considered, it is not. We are on the border, and that plays a part, of course, in our affairs there.

Q. Can you tell me what Senator Culberson could have had in mind when he protested to the War Department against sending colored soldiers to Brownsville?—A. Only one thing, that there was a protest made at Austin against the colored troops going there, and some indiscreet young men made the remark, so it is reported, that if they came there they would use ball cartridges on the negroes.

Q. That was in the State encampment of the National Guard?—A. Yes, sir.

By Senator OVERMAN:

Q. That was at Austin, not at Brownsville?—A. Yes, sir.

By Senator FORAKER:

Q. That was at Austin?—A. Yes, sir.

Q. You think that is what Senator Culberson had in mind?—A. It is possible that somebody may have communicated with Senator Culberson. I do not know the minds of other citizens.

Q. Is it not true that Brownsville has been known for years as a place where there was more likely to be difficulty with soldiers than any other place in Texas?—A. No, sir; I do not know that; no, sir.

Q. Let me read you what Senator Culberson said.—A. And here I will say that I am not familiar with what Senator Culberson said.

Q. I will make you familiar with it if you will give me a chance. I will read it.—A. Yes, sir.

Q. I read from page 23 of Senate Document 155:

Some time ago I called your attention to the danger of locating negro troops in Texas, especially in Brownsville.

Senator Culberson has been governor of your State, has he not?—

A. Yes, sir.

Q. He is entirely familiar with the whole State, is he not?—A. I do not how familiar he is with the conditions at Brownsville.

Q. Can you tell us what he could have had in his mind when he said there was danger in locating troops there? What kind of danger?—A. Nothing whatever, except at the Penrose court-martial I learned that one of our citizens had communicated, possibly, with our Senator at Washington.

Q. Who was that citizen?—A. A man by the name of Wreford.

Q. Samuel P. Wreford?—A. Yes, sir.

Q. You referred to him in your testimony a moment ago.—A. Yes; I spoke of his house.

Q. You spoke of him in another connection?—A. Yes, sir.

Q. The next day after the shooting you found him saying some very ugly things, and you threatened to send him to jail if he did not shut up?—A. Yes, sir.

Q. That is the same man?—A. Yes, sir.

Q. He made a protest, did he not?—A. I learned it after the Penrose court-martial. It was not generally known.

Q. You know it now?—A. Yes; but that would not represent the feeling of the citizens, generally.

Q. Possibly not, but was there any foundation for a telegram like that from Senator Culberson, indicating that there was danger in locating negro troops there?—A. No, sir; I do not think so.

Q. What kind of danger do you reckon he thought there would be?—A. From Wreford's letter, I should imagine he thought there might be a clash between the troops and citizens.

Q. Then, when he said "especially in Brownsville," you think he meant to emphasize that place as dangerous above all others, would you not?—A. Yes, sir.

Q. You met Major Blocksom, I understood you to say?—A. Yes, sir.

Q. You saw a good deal of him while he was there?—A. I saw him from time to time.

Q. You saw him from day to day, almost every day he was there?—A. Yes, sir.

Q. He was in almost constant communication with you?—A. Yes, sir.

Q. And you told him of the situation there?—A. Yes, sir.

Q. Let me read what he said in a telegram to The Military Secretary, as follows:

BROWNSVILLE, TEX., August 20, 1906.

The MILITARY SECRETARY, UNITED STATES ARMY,

Washington, D. C.:

Causes of disturbance are racial. People did not desire colored troops here and showed they thought them inferior socially by certain slights and denial of privileges at public bars, etc.

Is that statement true or not, as made by Major Blocksom two or three days after he arrived there, that the people of Brownsville did

not want the colored soldiers there?—A. I believe that Major Blocksom got that impression, but his statement there is misleading unintentionally.

Q. He would not intentionally mislead?—A. No, sir.

Q. You do not mean that?—A. No, sir; but it is misleading, because we did not know what the racial question was down there. We have very few negroes there, and it is only the new element that objected. I infer, from what Major Blocksom says there, that he refers to the new element who were never there when colored troops had served in Brownsville before.

Q. Mr. Mayor, let me ask you whether or not it is true that the people did not desire colored troops there?—A. Senator—

Q. I am quoting his language.—A. Before the troops came there I heard no objection to their coming there.

Q. You heard nothing of that kind?—A. No, sir.

Q. Major Blocksom went to see you almost as soon as he arrived, did he not?—A. Yes, sir.

Q. And he was in communication with you up to the time he sent this telegram?—A. Yes; but the racial part of it never came up. He formed his own opinion.

Q. Leaving the racial part of it out, what do you say? From whom did he get the impression that the people of Brownsville did not desire soldiers to go there?—A. I do not know. He may have gotten the impression after he came there that we did not want them there. After they came there, and after this disturbance, we did not want them there, and there is where he formed his conclusion, I presume.

Q. And you never heard any objection until after they came?—A. No, sir.

Q. And as far as you were personally concerned, you had not the slightest objection?—A. None whatever.

Q. You had served with them in Cuba and in the Philippines?—A. Yes, sir.

Q. And you had a good impression of the colored soldiers?—A. Yes, sir.

Q. And so stated to everybody?—A. Yes, sir; to everybody.

Q. You thought they were as good soldiers as there were in the Army?—A. Yes, sir.

Q. And you told your citizens so in your speech to them when you asked them to disperse?—A. Yes, sir.

Q. That they were as good soldiers as there were anywhere in the world?—A. When I said that I had reference to their fighting qualities.

Q. But you had no objection to them whatever?—A. No, sir.

Q. Did you hear any talk until they arrived, about their coming, in the nature of criticism of the fact that they were being sent there?—A. No, sir.

Q. Indicating a hostile feeling?—A. No, sir; I do not remember any.

Q. Did you hear of any meetings in Brownsville in which they discussed what they should do about their coming there?—A. No, sir.

Q. About the colored soldiers coming?—A. No, sir.

Q. If there were such meetings, you did not hear of it?—A. I knew nothing of it.

Q. What kind of night was that?—A. As I remember, it was a starlight night. I do not remember any moonlight.

Q. Let me refresh your recollection a little. You stated a while ago that when you were going down the street, desiring to sound the alarm—A. Yes, sir.

Q. You undertook to do it by striking your revolver on a lamp-post. And that not being able to sound the alarm properly that way, you thought to get a brick?—A. I thought to get anything. I did not know what I was going to get.

Q. Yes. You stooped down and felt around over the ground until you got hold of a brick? You used that expression.—A. That was right in the middle of the square, in the very darkest part.

Q. Yes. You found a brick?—A. Yes, sir.

Q. You were just feeling around on the ground?—A. I may have seen the brick. Feeling around on the ground, I kicked it with my foot.

Q. Did you see it?—A. I do not remember that. I got the brick.

Q. You got the brick and sounded the alarm?—A. Yes, sir; and then I threw it right down where I picked it up.

Q. Did you do any other feeling around on the ground that night to find something which in the daylight you could have seen without any trouble?—A. I saw that stain. I told you about that.

Q. Yes. But you had to get down and inspect that to determine what it was?—A. Yes, sir; it was a dark stain on the mesquite block pavement.

Q. And the night was so dark that you could not see what it was?—A. No, sir; I had a pretty fair light from that lamp and from Rutledge's jewelry store, and this dark stain on the mesquite-block pavement attracted my attention, and I wanted to find out what it was.

Q. You made a close inspection of it to find out what it was?—A. I put my hand on it; yes, sir.

Q. I am only talking about your own statement. I am only trying to recall to your mind what you have testified about, not only prior to to-day, but here this morning, within an hour or two. So, to determine what that dark spot was, you did not get down and inspect it and put your hand in it to see what it was?—A. Yes, sir; I could see plainly that it was a dark spot.

Q. You could see plainly that it was a dark spot?—A. Yes, sir.

Q. The pavement was light in color, was it not?—A. No, sir; not especially.

Q. What is the color of that pavement?—A. It is about the color of the floor on the other side of that tiling [indicating on floor].

Q. Well, that is a light-gray color, is it not?—A. Yes, sir.

Q. A sort of a cement color—about the color of cement?—A. Yes, sir; a little darker than cement.

Q. You found some shells that night, too, did you not?—A. Yes, sir.

Q. You had to feel around over the ground to get them, too, did you not?—A. Yes, sir.

Q. Could you see them until you felt them?—A. They did not attract my attention. What attracted my attention was that the toe of

my shoe, or some part of my shoe, struck these things together as I walked, and then I discovered the shells.

Q. Then you discovered the shells?—A. Yes, sir.

Q. And then you felt down over the ground and found other shells?—A. Yes, sir; I found some other shells.

Q. Now, with all that recalled to your mind, will you not agree that it was a pretty dark night in the streets and in the alleys where there were no lights?—A. I did not have that impression.

Q. You thought it was a light, bright night?—A. No, sir; I did not think it was a light, bright night.

Q. What kind of a night was it?—A. It was not an especially dark night. It certainly was not very bright.

Q. Would it make any difference in your recollection if men have testified here that coming upon each other they did not see each other until they were within 3 or 4 feet of each other?—A. I do not remember that; no, sir.

Q. You do not remember that?—A. No, sir. The men I saw were on Elizabeth street, and it was fairly well lighted.

Q. Elizabeth street was a pretty well-lighted street?—A. Yes, sir.

Q. How well lighted is that street?—A. Well, that night there was a light on the Wreford corner.

Q. On the Wreford corner? Tell us where it is by streets.—A. On Elizabeth street. I call your attention to the fact that these lamp-posts are not properly placed [indicating on map].

Q. I wish you would tell us how they should be.—A. Here is the gate, and here is Elizabeth street. This one is right [indicating].

Q. That one is right, there on Elizabeth street, opposite the Miller Hotel?—A. Yes, sir. There was a light here—

The CHAIRMAN. When you say "here," please give the corner, so that the stenographer can get it down.

A. (Indicating.) On the corner of Thirteenth and Elizabeth streets, in front of the hotel, and in the hotel office.

By Senator FORAKER:

Q. Before you leave the hotel, have you not testified here before that only one of those hotel lights was burning at that time?—A. No, sir; there was a light here [indicating], and one in the office.

Q. One in front, you are talking about now. That was an acetylene light?—A. Yes, sir.

Q. What candlepower is that?—A. I do not know; I can not tell you.

Q. How far is that back from Elizabeth street?—A. This is the sidewalk [indicating]. There is the street. From that dark line over to that building is the sidewalk.

Q. Can you tell how wide the sidewalk is there?—A. It is wider than the ordinary sidewalk, probably 20 feet from the street to the building.

By the CHAIRMAN:

Q. That is on the lot, not on the street? The sidewalk runs over that much on the lot?—A. Yes, sir.

By Senator FORAKER:

Q. What I want to get at is, there is a street lamp at each corner of the street?—A. Yes, sir.

Q. That is, there is one at the corner of Elizabeth and Fourteenth?—A. Yes, sir.

Q. One at Washington and Fourteenth?—A. Yes, sir.

Q. One at each of those streets at its intersection with Thirteenth and Twelfth streets?—A. Yes, sir.

Q. What candlepower are those lamps?—A. I could not tell you.

Q. Is not that lighting done under a city ordinance that prescribes the candlepower?—A. Yes, sir; but this is a kerosene lamp, an ordinary kerosene lamp. I do not know what the candlepower is.

Q. Is not the candlepower prescribed in your ordinance?—A. No, sir.

Q. Nothing of that kind?—A. No, sir.

Q. As I understand it, that lamp is a light made by the burning of a wick?—A. Yes, sir.

Q. And that is inside of a globe?—A. Yes, sir.

Q. And that globe is inside of an outside glass case?—A. Yes, sir.

Q. So that the light shines through two thicknesses of glass?—A. Yes, sir.

Q. Can you tell the size of the wick, or do you know?—A. The size of the wick?

Q. Do you know that?—A. No. The wick is about an inch wide.

Q. About an inch wide, you think?—A. Yes, sir.

Q. Doctor, you were at home, at the corner of Ninth and Elizabeth streets, at the time that the firing commenced?—A. Yes, sir.

Q. You were in bed, asleep, out on the gallery?—A. Yes, sir.

Q. Was that the upper or the lower gallery?—A. The lower gallery.

Q. The lower gallery? So that you were down near the ground?—A. Yes, sir.

Q. You were, then, about five or six blocks away from the garrison gate?—A. Yes, sir; every bit of that.

Q. Five or six blocks?—A. Yes, sir.

Q. Now, what awakened you?—A. Sir?

Q. Did you hear the first shots that were fired; did they awaken you?—A. I think I was awakened with the first shot.

Q. And I understood you to say that you heard four or five shots in quick succession?—A. Yes, sir.

Q. And that they were pistol shots?—A. I was so impressed.

Q. They did not sound like the shots you heard later?—A. No, sir.

Q. Which you describe as appearing to you to be from high-power guns?—A. No, sir.

Q. Did you get up immediately?—A. Yes, sir.

Q. Did you dress yourself entirely?—A. I put my slippers on, my trousers, and a light coat, I believe it was, and walked rapidly into this room that I have spoken of.

Q. Into that small room to get your pistol?—A. Yes, sir.

Q. What guns did you have in that room?—A. I had several shot-guns. My brother has several rifles.

Q. What kind of rifles are those?—A. I do not know, but I think that the rifle I had there, which was not touched at all, or taken out, is a Winchester rifle, a 30-30.

Q. Did you have any Krag-Jørgensen rifle there?—A. Yes, sir; I have one of my own.

Q. You have one, and your brother has one?—A. No, sir; I have an old one that I had in the Santiago campaign.

Q. Oh, yes.—A. That was locked up in another room.

Q. I wish you would look at the rifle that is standing against the wall back in the rear of that gun rack and tell me what kind of a gun that is. That is a Krag, is it not?—A. (After examining gun.) Mine is short, like that.

Q. This is a carbine?—A. Mine is a small one.

Q. You have the carbine?—A. It looks to me like that.

Q. That is the kind of a gun I understood you to say that the Rangers formerly were armed with?—A. No, sir; they used the Krag ammunition, I think. They always spoke of their gun as a Krag.

Q. Did they not carry this carbine?—A. Yes; I think so.

Q. This is the gun you refer to when you say that formerly the Rangers had "this gun." Now they carry another gun?—A. Yes, sir.

Q. That is correct, is it not?—A. Yes, sir.

Q. You went then immediately out onto the street?—A. Yes, sir.

Q. How long did it take you to get out after you heard these shots, onto the street?—A. I could not say, positively. As quick as I could dress and do these things and get out. I suppose it must have taken two or three minutes, altogether.

Q. Two or three minutes; yes. And then you started up on Elizabeth street?—A. I came back on the porch and spoke to my brother. That took a little time.

Q. Did you come back after you went out onto Elizabeth street?—A. No, sir; I came back after I came out of that room.

Q. You went and called to him?—A. Yes, sir.

Q. And then you turned and went out and went immediately up the street?—A. I went immediately out into Ninth street and walked to the corner.

Q. On the alley?—A. Oh, no. My house faces Elizabeth street and has a side entrance on Ninth street.

Q. You went out on the Ninth street side?—A. Yes, sir.

Q. And went down to Elizabeth?—A. Yes, sir.

Q. And started down Elizabeth towards the fort?—A. Yes, sir.

Q. That is what I wanted to get at.—A. Yes, sir.

Q. Then you went straight until you met Padron?—A. Yes, sir.

Q. Your brother did not leave the house in company with you?—A. Yes, sir. I got to the corner, and he caught up with me at the corner of Ninth and Elizabeth, as I have already stated.

Q. He had to dress after you awakened him, did he not?—A. He caught up with me.

Q. Was he armed?—A. Yes, sir.

Q. What did he have?—A. He had a pistol.

Q. No rifle?—A. I do not remember, now, whether he took the pistol from the house with him, or got one at the Hicks corner.

Q. Where is the Hicks corner?—A. He stopped there for a moment.

Q. Where is that?—A. That is at the corner of Tenth and Elizabeth streets.

Q. Tenth and Elizabeth?—A. Yes, sir.

Q. And you came as quickly as you could right down Elizabeth street, I suppose?—A. Yes, sir.

Q. Until you got into this square which I am pointing to, between Twelfth—A. No, sir; we spent some time, Senator, coming along those other two squares. First of all my brother called to me to hug the wall, and I stopped, and then went on and kept going, and as I kept getting downtown I kept going a little slower.

Q. The shooting was getting closer, and you were a little uncertain whether to hurry or not?—A. Yes, sir; that is about it.

Q. That is what I wanted to get at. Now, you met that policeman, Padron, somewhere?—A. I met him between Twelfth and Eleventh streets.

Q. Twelfth and Eleventh. That is what I understand you to say?—A. Yes, sir.

Q. Where was he going?—A. He was coming around the corner into Elizabeth street.

Q. That is, you met him on Elizabeth street between Eleventh and Twelfth?—A. Yes, sir.

Q. And he was coming—A. Towards me.

Q. Around the corner of the street onto Elizabeth?—A. Yes, sir.

Q. What street was he coming off of?—A. He may have been standing on the corner, but he looked to me to have come right around the corner.

Q. Of what street?—A. Of Twelfth street, into Elizabeth.

Q. So that it looked as if he had come down Twelfth street into Elizabeth, coming that way?—A. Coming that way; yes, sir.

Q. And he was coming north?—A. Yes, sir.

Q. And you were going south?—A. Yes, sir.

Q. And you met him about how far from the corner of Twelfth and Elizabeth streets?—A. I have already stated it was either in front of Putegnatz's drug store or Rutledge's jewelry store.

Q. Where would those places be? We have not got them on the map.—A. I suppose anywhere from 30 to 50 feet, there.

Q. At that time the firing was all over, was it?—A. Yes, sir; it had ceased before my brother and I had got to Putegnatz's drug store.

Q. So that all this firing occurred after you got awake, and before you met this man two squares—less than three squares—from your house?—A. All that firing took place, in my opinion, in between six and eight minutes.

Q. Six and eight minutes?—A. Yes, sir.

Q. Was this man Padron coming in a hurry or leisurely?—A. No, sir; he was coming around the corner, as I saw him; coming pretty fast.

Q. He was coming pretty fast. Did he tell you where he had been?—A. No, sir.

Q. How was he dressed?—A. He had on, if my memory serves me right, the drab uniform.

Q. The khaki, as we call it here?—A. Yes, sir.

Q. Did he have any arms of any kind?—A. He had his pistol with him.

Q. He had his pistol?—A. Yes, sir.

Q. He did not have any rifle?—A. I did not see him with a pistol, but every police officer carries his pistol at night.

Q. You assume from that that he had it?—A. Yes, sir.

Q. You did not see him with it?—A. No, sir.

Q. Did he have any other weapon that you saw?—A. No, sir.

Q. Where did he say that he had been?—A. He did not tell me. He said, "Mr. Mayor, do not go down that way. The soldiers are shooting up the town," or, "The negroes will kill you," or something of the kind.

Q. I wish you would think again. Do you know whether he had his pistol with him?—A. Why, Senator, he must have had his pistol, because he could not be on duty without it, and he was on duty.

Q. Let us see if for another reason he did not have it. Did he not tell you that he had been firing his pistol?—A. I do not remember.

Q. Do you not remember that he told you he had been up on Washington street?—A. Yes, sir; afterwards.

Q. And that he had fired his pistol?—A. But I do not think—

Q. What is your answer to that?—A. I think he told me that afterwards.

Q. After that time?—A. Yes, sir.

Q. But he did tell you that afterwards?—A. Yes, sir.

Q. He told you that he had fired on Washington street at somebody down towards the garrison?—A. Yes, sir; somewhere there.

Q. Down that way?—A. Yes, sir.

Q. Towards the fort?—A. Yes, sir. He said the negroes were firing at him, and that he fired from behind a tree as he was running along. He took the protection of the trees on Washington street.

Q. And you think that he did not tell you that at this time?—A. I do not remember that he told me that at this time.

Q. Did you ask him how he knew that it was soldiers?—A. I did not ask him anything just then. We were moving down the street.

Q. Had you sounded the alarm at that time?—A. Yes, sir.

Q. You had sounded that alarm?—A. Yes, sir.

Q. Did anybody respond to it?—A. He heard it.

Q. He was the only one?—A. Yes; but as I went down I met the other policemen.

Q. Were they coming in response to that alarm?—A. They heard the firing, and were coming towards the firing.

Q. How many policemen were on duty that night, probably?—A. I do not remember. With the chief of police and lieutenant of police there ought to have been at least eight or nine, I should imagine. I can not tell you positively.

Q. You did not give any special instructions to the police for that night, did you?—A. Yes, sir; after—

Q. No; I mean before, before the firing.—A. I have already stated what I said to the chief of police, Mr. Connor.

Q. What was that?—A. I used the words "qui vive." I told him to be on the qui vive.

Q. Yes.—A. Owing to that Evans affair, you know.

Q. When did you tell him that?—A. In the afternoon, after I had left Major Penrose.

Q. You told him to be on the qui vive that night?—A. Yes, sir.

Q. Do you know whether he was or not?—A. I should imagine that he obeyed my instructions. He posted his men as usual.

Q. Did he not put some of them on special duty?—A. I do not know.

Q. You do not know whether he did or not?—A. No, sir.

Q. Do you know whether or not he was on duty himself?—A. At the time of the firing, I do not know whether he was on duty himself or not. He usually goes home about midnight, and leaves the police in charge of the lieutenant of police, Dominguez.

Q. Did you tell him why you wanted him to be on the *qui vive*?—A. I told him about going down to see Major Penrose, and that Major Penrose said that he was not going to allow the men to come into town that night.

Q. He knew of this excitement among the people, did he not?—A. I think so; yes, sir.

Q. What was it you told Major Penrose about his men being out that night?—A. I told Major Penrose, when I met him that afternoon, when I went down to protest against his men coming into the town—

Q. That was about 5 o'clock in the evening?—A. Yes, sir. I have already qualified my statement. I have said that I used one or the other of two expressions. I either said, "Major Penrose, if you allow your men to come down town to-night, under the present excitement of the people, I will not answer for their lives," or, "It is very dangerous; do not allow them to come down."

Q. Or, "I will not be responsible for their lives?"—A. Or, "I will not be responsible for their lives." Something to that effect.

Q. That is, you wanted him to understand that there was a great deal of excitement among the people?—A. Yes, sir.

Q. And if any of them came downtown some of them might be killed? That was the idea?—A. Yes, sir; there might be trouble.

Q. That was on account of the Evans matter?—A. Especially on account of the Evans matter.

Q. That had happened only the night before—Sunday night?—A. Yes, sir.

Q. Before that time there had been only one other difficulty of any moment, and that was when Mr. Tate had struck one of the soldiers over the head?—A. Yes, sir.

Q. Before I get away from it, I want to ask you about Policeman Padron. In what language did you conduct your conversation with him?—A. As near as I can remember, it was in Spanish.

Q. In Spanish?—A. Yes, sir.

Q. He speaks English, though, does he not?—A. Brokenly. And the Mexican policemen, when they speak to me, usually speak in Spanish. We had at that time about five officers on the force who spoke English, and if I included Padron, there would be six. If you ask Padron a question slowly, and use plain words, he is liable to be able to give you a sensible answer.

Q. Do the Mexicans find it difficult to acquire our language?—A. More so than we do to acquire theirs. We all speak Spanish down there, nearly; all of us who have been there any length of time.

Q. You speak about two policemen being shut up in the house of Mrs. Leahy. Which two were they?—A. That is only hearsay with me. They were Briseño and Calderon, I think.

Q. You mean Coronado?—A. Coronado, yes, sir.

Q. Those two?—A. Yes, sir.

Q. Did you ever investigate that to find out what the facts were?—

A. I left that matter to the chief of police.

Q. Do you know whether he investigated it?—A. I think he did.

Q. With what result?—A. Nothing at all, except that he stated to me that these two men were down in that part of the town, and Mrs. Leahy invited them in there because she considered that two policemen against the number of men who were around there amounted to nothing in preserving order, and she asked them in there to protect them.

Q. So that she was going to protect them instead of having them protect her?—A. It would be a very natural thing to do under the circumstances.

Q. It was a natural thing for two policemen to be taken into a house and locked up in a room when there was a riot going on?—A. I do not know about the locking them up.

Q. Well, shut up.—A. Yes, sir; I think it was natural, when a lot of soldiers were in town, armed as they were with high-power rifles, and the policemen with their two pistols. I think it would have been foolhardy for them to have attempted to do anything with them.

Q. You think it was the part of wisdom for them to go off and hide themselves out of sight?—A. I certainly do.

Q. Do you not think it would have been more in keeping with the duty of policemen to at least keep their eyes on these raiders, and follow them, to the extent of seeing what became of them?—A. Yes, sir; I do. But what I have reference to is seeking shelter, under the circumstances.

Q. What is that?—A. What I have reference to in regard to their actions is the matter of seeking shelter, you understand. I do not believe they ought to have hidden themselves and not looked around.

Q. It is reported and testified to here that they remained shut up there for an hour and a half after the firing.—A. I do not know about that. I was very busy at that time.

Q. Mrs. Leahy said they were in there two hours.—A. That was wrong; they should not have remained there.

Q. You think they should have gotten out?—A. Yes, sir.

Q. Do you not think if your policemen, nine of them on duty, had exercised anything like diligence in their duty they could have followed these men and seen what became of them?—A. Positively no, sir.

Q. You do not think they could have done that?—A. I do not think that any nine men, stationed as they were all over town, when the firing was going on in one general direction, could concentrate and effect anything.

Q. Do you not think it was the duty of those policemen, when they heard an unusual occurrence like this—and this, I assume, was unusual, was it not?—A. Yes, sir.

Q. To go to the scene of the trouble?—A. Some of them did, and you have the evidence of it.

Q. Dominguez did?—A. Yes, sir.

Q. And Macedonio Ramirez?—A. Yes, sir.

Q. And Padron?—A. Yes, sir; They were the nearest officers.

Q. Yes. You do not know of any others going?—A. None but the mayor.

Q. You did not discharge anybody from the police force on this account?—A. No, sir; I would not have done it.

Q. Would it not be the duty of your policemen, seeing a lot of marauders shooting up the town—trying to shoot men, women, and children—to try to put a stop to that, even to the extent of firing upon them?—A. They were not around there. They were in different parts of the town.

Q. I know; but was it not their duty to go and try to put a stop to it?—A. I know; but they did not get a chance.

Q. Some of them testified that they had a chance. If they had killed some of those men we would not have had any trouble in knowing who they were.—A. One of them, who got near enough to them, did fire, and the others did not have a chance to do any firing.

Q. Is it not a rather singular thing that ten or fifteen men could go out and march through a town like that, with nine armed policemen in it, all within a distance to enable them to get there—is it not a singular thing that under such circumstances that could happen without the police killing anybody or arresting anybody, or making an attempt to arrest anybody?—A. No, sir.

Senator WARNER. Wait a moment. I want to make a suggestion that possibly that question assumes something that is not proven—the statement that they were all within a distance to have gotten there?

Senator FORAKER. Possibly that may be.

By Senator FORAKER:

Q. Is not that a singular thing, Mr. Mayor?—A. I do not know. I do not think so. I can not agree with you, and I will give my reasons for it, if you wish me to.

Q. If you want to explain your answer, you may do so.—A. Senator, I will get through briefly. Those men are stationed all around the town. They are Mexican policemen, and they do not possess the quickness of thought and action that an American has, and when the lieutenant of police heard this firing, he went to it as quick as he could with two officers. Ten men, attacking a town like this, like these men did, with concerted action, and a determination to do something and to do it quick, could have done that anywhere, under the same circumstances, and the police would not have done any more than those Mexican policemen did. That is what I think.

Q. That is, you think that in any city in this country having nine policemen on duty, armed as these men were, ten or fifteen men could have gone out and shot up the town at midnight and escaped without any of them getting hurt?—A. Yes, sir.

Q. Or getting arrested?—A. Yes, sir.

Q. Or even being pursued?—A. Yes, sir; I believe that is possible.

Q. Well, when we come to argue the case, I think I can show that in all probability there is not any other city in the country where, in my judgment, that would happen.

Senator WARNER. Is this to go in the record?

Senator FORAKER. Yes; it is just as proper as the reasoning on the other side. Let it go out.

By Senator FORAKER:

Q. Take Dominguez. You say there was no reason why they should have picked him out to shoot him. Bad men do not have to have reasons to shoot people, do they?—A. No, sir.

Q. Tell us about Dominguez. He has been a member of the constabulary, if I may so term it, for many years?—A. Yes, sir.

Q. He has been a police officer?—A. Yes, sir.

Q. He was a customs officer for a good many years?—A. Yes, sir.

Q. You told about one case in which he killed somebody?—A. In that jail delivery.

Q. In a jail delivery? He rounded up a number of people and put them back in jail?—A. Yes, sir; by himself.

Q. A very brave and meritorious action?—A. Yes, sir.

Q. If you had had nine men all like Dominguez, you might have gotten some of these soldiers that night, might you not?—A. I do not think so.

Q. You think they would have been too much even for him?—A. Yes, sir.

Q. Let that be as it may. How long was he a customs officer?—

A. I do not know.

Q. When was that?—A. During Mr. Rentfro's administration—the Republican administration.

Q. Mr. Rentfro. That was a few years ago, eight or ten years ago, or longer?—A. Yes; it is a little more than that.

Q. He was a customs officer?—A. Yes, sir.

Q. That is to say, he held the same kind of a position that Mr. Starck holds, who testified here yesterday?—A. Yes, sir.

Q. He was a mounted customs officer?—A. Yes, sir.

Q. It was his business to arrest smugglers?—A. Yes, sir.

Q. There is a great deal of smuggling there, is there not, across the line?—A. There is some; not near as much as there used to be. It is petty smuggling.

Q. Not near as much as there used to be?—A. No, sir; it is petty smuggling now.

Q. Starck testified, when he testified here, that when he went on there was a great deal of it. Is that your recollection, that there was a great deal of it about that time?—A. Yes, sir; a good deal more before that.

Q. And that is the time that Dominguez was with the customs officers?—A. Yes, sir.

Q. Now, was he not required to make arrests frequently; almost every day?—A. The duties of a customs inspector you are probably more conversant with than I am. They are to arrest smugglers anywhere they find them, and to examine them. They can examine anybody that they suspect.

Q. And if anyone they try to arrest resists them they have a right to use force to compel them to submit to the arrest?—A. Yes, sir; I suppose so.

Q. Do you know of Dominguez having any trouble with any of these people that he arrested?—A. I do not know.

Q. He has had trouble, has he not?—A. Yes, sir. He was shot by a soldier down there.

Q. He was shot when, two or three years ago?—A. Yes, sir; he was shot in the discharge of his duty, arresting a soldier.

Q. A soldier of the United States Army?—A. Yes, sir; in the Army.

Q. That was a soldier by the name of Baker?—A. Yes, sir.

Q. And Baker was defended by Judge Parks?—A. Yes, sir.

Q. And Judge Parks was the man who was in the Leahy Hotel, in the room adjoining the room of the witness Elkins, the night of the shooting?—A. Yes, sir.

Q. Where is he?—A. He is dead.

Q. He died shortly after the shooting?—A. Yes, sir.

Q. He came to a violent death, did he not?—A. Yes, sir.

Q. He fell from a second-story window, did he not?—A. Yes, sir.

Q. It was in the night-time?—A. Yes, sir.

Q. Do you know whether he fell or whether he was pushed out of that window?—A. I do not know; he was found on the pavement, and Mr. Elkins was in the next room, and Mr. Elkins was a friend of his, a young man with a very good character, and it is supposed that Judge Parks went over the river and libated too much, and that when he came back he sat in the window to cool himself and fell out.

Q. I only wanted to know whether you heard any such story as I have indicated?—A. No, sir.

Q. You never heard that?—A. No, sir.

Q. Now, Mr. Mayor, these first shots you say were pistol shots? Where did they seem to you to be located?—A. In a southerly direction.

Q. Down somewhere towards the barracks?—A. Yes, sir; south of my house some distance.

Q. But you could not tell whether they were inside or outside of the wall?—A. No, sir.

Q. You do not pretend to know anything about that?—A. No, sir.

Q. You did not see any of the men who did the firing?—A. No, sir.

Q. And all you know is that on account of this incident there was a very ugly feeling among the citizens, which caused you to request Major Penrose to keep his men in the fort that night?—A. Yes, sir.

Q. And notwithstanding those precautions, about midnight you were awakened by this firing, and the first shots seemed to be from pistols?—A. Yes, sir.

Q. What kind of pistols were those, if you can tell; .45-caliber pistols?—A. I should imagine it to have been a pistol of a similar character; possibly a .38, but not less than a .38 or a .44 or a .45.

Q. You heard other pistol shots that night, also?—A. Yes, sir; I was wider awake then.

Q. Now, you testified at great length before the court-martial?—A. Yes, sir.

Q. And you were cross-examined at great length?—A. Yes, sir.

Q. Is there anything in your cross-examination that you care to change, Doctor? I do not want to go over it all. If there is anything that you know of that you want to change, let us know it. That testimony is before this committee just the same as your testimony now being given will be.—A. I do not remember, just now. There may be, but I can not tell.

Q. There are one or two other things, then, that I will call your attention to. Did you hear of any of your policemen being chased by soldiers that night?—A. Genaro Padron and Macedonio Ramirez.

Q. No; that was after the lieutenant was shot. But did you hear of Coronado or Briseño being chased?—A. No, sir; I never heard of that.

Q. You did not hear of them being chased?—A. No, sir.

Q. You did not hear that that was the reason why they took refuge in the Leahy Hotel?—A. No, sir.

Q. That the soldiers were after them?—A. No, sir.

Q. Do you know whether there were any shots fired straight down Elizabeth street?—A. High in air. After we left the house, when my brother called to me, there were a few shots, high up.

Q. They might have come out of the alley, might they not, over the houses, passing in that general direction?—A. If they went up, sir; but it struck me that they were anywhere from 10 to 15 feet up in the air. You could hear the whistle.

Q. You simply heard the bullets whistling?—A. Yes, sir.

Q. You do not know where they came from?—A. No, sir.

Q. Is it not an impossibility to tell from the mere whistling of a bullet where it comes from?—A. If you are attentive, you can hear it go by and form an idea of the direction.

Q. But you could not tell where it came from?—A. No, sir.

Q. If there had been firing up towards Elizabeth street, where you were on Elizabeth street going towards the fort, you could have seen the flashes?—A. Yes, sir.

Q. And you did not see any flashes?—A. No, sir.

Q. Nothing of that sort?—A. No, sir.

Q. On your way up towards the fort, on Elizabeth street, you finally came to Crixell's saloon?—A. Yes, sir.

Q. And I understood you to say that as you came up to that you saw a man going in with a gun?—A. I do not know whether he was going in; just about at the door.

Q. That was Tamayo?—A. I think his name is José Garza Tamayo.

Q. How is that?—A. I can find out positively from some of the witnesses here.

Q. I wish you would. Before the court-martial you have spoken of that man. He had a gun, and you followed him into Crixell's saloon?—A. I took the gun away from him outside, and told him to get into the saloon, and he went in, and I walked into the saloon with the gun, and Crixell says, "That is my gun." I gave it to him.

Q. You handed it to him?—A. Yes, sir. Then he took it, and he says, "It doesn't work," and he tried to work the gun, and it didn't work.

Q. There was something the matter with the magazine?—A. Yes, sir. He will explain that.

By Senator OVERMAN:

Q. Do you know where he got that gun?—A. He got that gun at Crixell's brother's saloon, in the market place; that is, the boy that I spoke to told me so.

By Senator FORAKER:

Q. He told you that he got this gun at Crixell's brother's saloon in the market place?—A. Yes, sir; and he was going towards the firing.

Q. Crixell's brother's saloon?—A. Yes, sir.

Q. The one in the market place?—A. Yes, sir.

Q. The saloon in which you found this man with the gun is opposite Tillman's saloon on Elizabeth street?

(A slip of paper was here brought in and handed to the witness.)

A. Yes, sir. I am informed by some of the witnesses outside that the name of this man is José Garza.

Q. So that it is a mistake if it is printed in your testimony before the court-martial as José Tamayo?—A. No, sir. His name is José Garza, but he has Tamayo in his name. The Mexican names are peculiar in that way.

Q. This man was not that Tamayo who was the scavenger at the fort?—A. No, sir.

Q. He was not related to him?—A. I do not think so. Tamayo is a very common name.

Q. Do you know the Tamayo who was a scavenger at the fort?—A. Yes, sir; I have seen him.

Q. You know who he is?—A. Yes, sir.

Q. It was not his brother?—A. No, sir.

Q. Now, who told you that he got that gun at the other Crixell's saloon?—A. Joe Crixell, himself.

Q. Who is Joe Crixell?—A. He is the witness who is here now, and who has the saloon on Elizabeth street.

Q. And he told you that this boy had gotten it over at his brother's saloon?—A. Yes, sir.

Q. In the market place?—A. Yes, sir.

Q. Did the boy agree to that?—A. He did not say much more. I told him to get back in the saloon, and about that moment I was greeted by a chorus of "The negroes are shooting up the town," and "The soldiers are shooting up the town."

Q. That is what everybody was crying?—A. In there; yes, sir.

Q. Was this a young man who had this gun?—A. Yes, sir.

Q. A mere boy?—A. No, sir; he is a boy well on in his twenties. I should imagine.

Q. Well on in his twenties?—A. Yes, sir; or maybe thirty.

Q. Did he appear to have been moving about?—A. No, sir.

Q. He was calm and deliberate?—A. Yes, sir. He was a little under the influence of liquor.

Q. A little under the influence of liquor?—A. Yes, sir.

Q. How much?—A. Not very much. He was not drunk.

Q. Where had he been?—A. I don't know. I didn't ask him any questions.

Q. Have you found out since?—A. Yes, sir. The chief of police found that he came from the market, and I think that he can be accounted for.

Q. You do not think that he was out shooting up the town?—A. No, sir. He acts as one of the policemen.

Q. What is that?—A. He acts sometimes as a policeman.

Q. Yes. And of course that would be conclusive evidence against his having anything to do with the shooting up of the town?—A. Yes, sir; as far as my opinion is concerned.

Q. Still, he appeared with that gun?—A. Yes, sir.

Q. And this gun seemed not to work right, somehow?—A. Yes, sir.

Q. We have been told by the testimony of a witness that there was

a gun in operation at the Cowen house that seemed to have something the matter with the magazine, the operation of the magazine.—A. I do not know anything about that.

Q. You do not know anything about that?—A. No, sir.

Q. Do Briseño and Coronado speak English?—A. Briseño does. Coronado, very poorly.

Q. Now, a little bit later there was an assemblage of the citizens down at Tillman's saloon, on Elizabeth street, was there?—A. Yes, sir.

Q. How many were there?—A. In my first statement I said that there were 300. I said to Major Penrose that there were about 300 people, but in the excitement of the moment I feel certain now that I exaggerated the number.

Q. How many do you think now that there were?—A. From 150 to 200.

Q. Were they armed or not?—A. A great many were armed.

Q. Do you know what kind of arms they had?—A. I could not tell you, Senator, except I saw some shotguns. I remember seeing a rifle, and they had pistols—anything that they could find.

Q. Did you make any examination of those guns, or was there any examination made, to determine whether any of them had been fired or not?—A. No, sir.

Q. There was no examination?—A. No, sir.

Q. They wanted to go right down to the fort and "do them up," was your expression?—A. Yes, sir. In the excitement of the moment they wanted revenge, I suppose. They wanted to go down there.

Q. You told them not to go?—A. I have already stated that.

Q. And persuaded them to go home?—A. Yes, sir.

Q. What was it you said about Major Armstrong, a prominent Republican?—A. I met him. He was in the Miller Hotel the night of the firing. I met him in front of Yturria's office, and we were talking about the matter, and I said I thought we ought to get the thinking men of the town together, and he said, "Yes; that is what I think." He said that he would stay with me, but he had some very important business—cattle business—and that he had to leave; but he said, "I will be back later in the day." Mr. Goodrich was present, also.

Q. He gave you good advice?—A. Yes, sir.

Q. Which you followed?—A. Yes, sir.

Q. A good many others did not. One was Wreford, whom we talked about, and another was Mr. Billingsley?—A. Yes, sir; Mr. Billingsley.

Q. Does he live in Brownsville?—A. He has a dairy right outside of town.

Q. How far outside?—A. I should imagine that is a mile and a half or 2 miles.

Q. In what direction? Up the river?—A. He now lives up the river, but I think then he lived east of the garrison, about half a mile.

Q. At that time, to get to his place he had to go out Fifteenth street to the county road that turns up at the place where the Allison saloon was?—A. He could take another street—another road—but he frequently took that road, I think.

Q. The one I indicate was then more generally traveled?—A. Yes, sir.

Q. And it was more natural for him to take it?—A. Yes, sir.

Q. So that he went out beyond the barraeks, going around the rear of the hospital?—A. Yes, sir; but outside of the reservation.

Q. Clear outside, I mean?—A. Yes, sir.

Q. Clear outside. You see on the map what I mean [indicating]?—A. Yes, sir; very distinctly. He followed the north boundary of the garrison until he came to the corner of the wire fence, and then he would go to the right and go to the eastward.

Q. His house was away up there, a mile and a half?—A. No, sir; I do not think that house, on an air line from the garrison, from the guardhouse, is that far. I do not think that Billingsley's house from the guardhouse probably is over three-quarters of a mile, on a straight line. About that, I should imagine.

Q. Just look at that map and notice where the commissary buildings are located, right over the words "Dry lagoon." Do you see that group of buildings there?—A. Yes, sir; I see the quartermaster's store and the commissary's.

Q. His house was over there. If you would go out beyond that to that road, three or four hundred yards farther it would be, would it not?—A. Oh, yes. That is not the road, you know.

Q. Oh, I know it is not. How far is it to the road from there?—A. From the commissary storehouse to the wire fence is probably two hundred and some odd yards.

Q. Yes. That is to say—I will say from this point here, that is, the bakery [indicating]?—A. From the bakery to the wire fence, which is at the boundary of the reservation, it is a little over 200 yards.

Q. And that is where the counrty road runs that he would travel on?—A. No; it turns off over here.

Q. Turns off where?—A. Will you let me point to it?

Q. Certainly.—A. Here is the garrison wall [indicating].

Q. Then you followed that out?—A. You would go right on out.

Q. To the Allison saloon?—A. It is away past the Allison saloon.

Q. You go to where the country road comes into the town, do you not?—A. Yes; sir; but it is well on past that.

Q. Certainly.—A. Well, you get to the corner of the fence, and then you swing to the right.

Q. That is, to the corner of the reservation?—A. And you follow that wire fence about 150 yards, and then swing to the left, and leave it.

Q. At how much of an angle does it swing?—A. Right straight out.

Q. And goes straight in that direction [indicating]?—A. Yes, sir.

Q. For how long a distance?—A. For 300 or 400 yards, and then it turns to the right.

Q. It turns to the right and keeps up the river, does it not?—A. Yes, sir.

Q. In other words, there is simply a bend in the road up here?—A. It is twisting and turning.

Q. The place where he lived is after you turn to the right?—A. Yes, sir.

Q. So that his place would be up that way that I am pointing now [indicating]?—A. Yes, sir.

Q. That is where I am trying to locate it.—A. Yes, sir.

Q. He lived out there at that time, did he not?—A. Yes, sir.

Q. That is where he would have been if he had been at home and in bed?—A. Yes, sir.

Q. This was midnight when the firing occurred?—A. Yes, sir.

Q. And he was in this crowd that turned up there that night, was he not?—A. Not that I know of, sir. I never was told so.

Q. Did you not testify that you saw him that night?—A. No, sir.

Q. You saw him the next day?—A. Yes, sir.

Q. Did you not see him before the next day?—A. No, sir.

Q. Did you not see him the day before; that is, on the 13th?—A. I do not remember seeing him.

Q. You do not know whether he was in Brownsville that day or not?—A. He comes into Brownsville every day.

Q. About his business?—A. Yes, sir.

Q. What place does he frequent when he comes in there?—A. He attends to his dairy business, and goes to the bank, and—

Q. Mr. Mayor, has it not been brought to your knowledge that he was in Crixell's saloon, in the afternoon, about 4 or 5 o'clock, on the 13th?—A. Yes; but I do not remember seeing him.

Q. You did not see him, but I asked you if you did not know that he was in town?—A. A witness so stated.

Q. It has been testified to?—A. Yes, sir.

Q. It has been testified to by himself?—A. Yes, sir.

Q. And that the negro soldiers were the subject of discussion there by him?—A. Yes, sir.

Q. At that time?—A. Yes, sir.

Q. And you say you did not see him that night?—A. No, sir; I do not remember seeing Mr. Billingsley, and never have so stated.

Q. But you did see him the next day?—A. Yes, sir.

Q. And he was talking very badly the next day?—A. Yes, sir.

Q. And what was he saying?—A. He was very much excited and talking about this negro outrage.

Q. What was it that he wanted to do?—A. I do not believe that he knew himself what he wanted to do, except that he was going to get the citizens of Brownsville into trouble.

Q. What was he saying, himself, that he wanted to do?—A. I do not remember now.

Q. Was he not saying that he wanted to go up and kill all of them, or language to that effect?—A. As to this conversation of Billingsley, it was reported to me that he was talking in this way, and I went up to him and told him that he was talking in this manner, and that I wanted it stopped.

Q. What do you mean by "this manner?"—A. That he wanted to go down there and do up the negroes for the outrage they had committed; that it ought to be done, or something of the kind.

Q. He was talking very much the same way the day before, according to his testimony, was he not?—A. Yes, sir.

Q. He talked the same way the day before?—A. Yes, sir.

By Senator OVERMAN:

Q. When was that?—A. After the Evans affair.

Q. After the Evans affair?—A. Yes, sir.

Q. What sort of a man is Mr. Billingsley?—A. He is a farmer—a cow man.

Q. What sort of a man is he?—A. He is an honest man. He does a good deal of talking, but I do not know anything against his character.

By Senator FORAKER:

Q. Before you became mayor it was a very common thing for the citizens of Brownsville to carry arms, was it not?—A. Yes, sir. I was the first man to enforce the law.

Q. You instituted a reform in that respect?—A. Yes, sir.

Q. What was the custom in that regard?—A. Of course there is a law against the carrying of concealed weapons, but when I was elected mayor it was one of the things that I took up.

Q. The law had not been observed up to that time?—A. It had been observed, but there were some people who did carry arms.

Q. There were a good many who carried arms, were there not?—A. No, Senator, I would not say that.

Q. Was it not a very customary thing for men to be going about with pistols strapped on them?—A. Yes, sir; but you must remember that Brownsville is the only town in that vicinity, and these ranchmen coming in there for a number of miles around would ride into town with their six-shooters on.

Q. I am not finding any fault, but it was the custom?—A. Yes, sir. But I was talking about concealed weapons.

Q. Well, concealed weapons. Did not almost every man carry some kind of an arm?—A. No, sir.

Q. Those that came in from the ranges would?—A. Oh, yes, sir.

Q. They had a carbine or a pistol?—A. Or a pistol; yes, sir.

Q. That was not an uncommon thing?—A. That was not an uncommon thing. In the last few years it has not been as common as it used to be. You have reference in what you are talking about to three years back, and four years.

Q. This smuggling was going on all the time?—A. Petty smuggling.

Q. The customs guards were armed, and they frequently had to fire on these smugglers, did they not?—A. Yes, sir; to scare them.

Q. There was a good deal of that sort of thing going on, was there not?—A. I never use the words "a good deal," because it gives a wrong impression. It was done.

Q. What is that?—A. This firing at smugglers to frighten them was done; that has been done, but I would not say "a good deal," because that would be misleading.

Q. That is not unusual?—A. No; it is not unusual.

Q. Now, what rewards have been offered for people to come forward who have knowledge, and give it, so as to identify the men who did this shooting?—A. There was talk of quite a large reward being raised, but whether it has been done I do not know. I do not think it has been, so far.

Q. Did not the governor of the State offer a reward, immediately after this shooting, of \$500?—A. Yes, sir.

Q. That was for the benefit of any soldier who might tell on his comrade, if he had a guilty comrade and had knowledge about it?—A. Yes, sir; I saw in the newspapers something about it.

Q. I saw in the newspapers three or four weeks, or not that long, ago, an article from Brownsville announcing that the city authorities had offered a reward of \$10,000 for any soldier or officer of that battalion who would give testimony that would lead to the conviction of those who did the shooting.—A. There is no truth in that, and the report was started by an Ohio man.

Q. I would like to know who he is—A. I will give you his name. It is a Mr. Longworth.

Q. No relation to the son-in-law of the President, I suppose?—A. No, sir. I mention that, Senator, because I wanted you to know who the man was.

Q. I only wanted to know, Mr. Mayor, whether there is any truth in this statement, that this reward has been offered?—A. No, sir. I will tell you about this. This was a young man who was down there trying to get up a nursery proposition. I do not know what it is. He was a plant man.

Q. What part of Ohio was he from?—A. You have got me thinking now. Ohio is a big State.

Q. Do you know that he was the author of that?—A. Oh, yes, sir. He wrote an article in the paper and signed his name to it.

Q. I would like to have that article. Was it in a Brownsville paper?—A. I can get it for you. I have a number of papers and articles, and I think I can give it to you.

Q. Did he state that a reward had been offered? All that I want to get at is, is there any truth in the statement that there was a reward offered?—A. I will tell you the whole thing. He was at the hotel, and somebody said in his presence, "Why, these Brownsville people have done enough talking about this thing, and they ought to keep their mouths shut," and Longworth took it up, and he said \$10,000 could easily be raised; and then he wrote a little article in the paper encouraging the idea, but it was never taken up or thought about.

Q. So that there is no reward offered?—A. No, sir.

Q. And if there should be a reward offered it would be broad enough to include anybody who might give the evidence desired?—A. Certainly, sir.

Q. You spoke about Judge Welch. He is dead also, is he not?—A. Yes, sir.

Q. He was killed, I believe, you said?—A. Yes, sir; he was murdered.

Q. Murdered at Rio Grande City?—A. Yes, sir.

Q. Just a few months after this occurred?—A. A few weeks.

Q. A few weeks. What was the cause of his being murdered, if you know?—A. Political troubles. The election fight was very bitter up there.

Q. You said that he was a one-armed man. How had he lost his arm?—A. He lost his arm firing a Fourth of July salute.

Q. Some years before?—A. Yes, sir.

By Senator OVERMAN:

Q. He was killed on account of some political trouble?—A. Yes, sir.

Q. That had nothing to do with this affair?—A. Nothing at all. It was a Democratic faction that stirred up a squabble.

By Senator FORAKER:

Q. He was in bed and asleep when he was killed?—A. Yes, sir; he was foully murdered.

Q. And they shot him on account of some political difference?—A. That is the supposition. I do not think there is any doubt about it.

Q. Now, you spoke about Captain McDonald?—A. Yes, sir.

Q. And you thought he was too zealous?—A. I felt we were better able to cope with the situation, because we were calmer than he was. I do not wish to cast any reflection upon his ability as a public officer.

Q. That would not be safe, would it?—A. Well, I don't know.

Q. What made him so overzealous, as you thought?—A. Because he had been accustomed to handling negroes in some parts of the State, and I suppose he thought that he could come down there and handle the situation better than we could.

Q. But he did not help you much, did he?—A. I do not think so.

By Senator TALIAFERRO:

Q. He is a man of nervous temperament?—A. Yes, sir.

By Senator FORAKER:

Q. You had confidence in the judgment of Major Blocksom in regard to all these matters, had you not?—A. Yes, sir; I have a great deal of confidence in him.

Q. I find that in his dispatch published at page 103 of Senate Document 155, addressed to the military secretary, Southwest Division, dated Oklahoma City, Okla., September 23, 1906, after discussing a number of matters, he says:

It is highly improbable that the accused men could have been taken away without discovery by civil authorities had Major Penrose kept secret the instructions in the telegram.

He refers to the twelve men who were arrested there. Then he says:

Captain McDonald is extremely shrewd, and was intensely suspicious and vindictive in the matter. He showed distrust and dislike towards the officers of the Twenty-fifth Infantry in every word said and every move made. He possessed great influence over the lower classes in Brownsville and vicinity.

Is that statement in accordance with your view of Captain McDonald's actions?—A. No, sir; because I do not know the things that Major Blocksom knew in regard to Captain McDonald, in regard to his vindictiveness towards the officers and men.

Q. You do not know that he had any vindictiveness in his actions?—A. Not specially, except he was sure that these men who were guilty were down in the post, and he wanted to get at them, willy-nilly, and that is about my view of it. He was overzealous. That may have been Major Blocksom's impression.

Senator FORAKER. There are a number of other matters that I would ask this witness about, but he has been interrogated about them before the court-martial. I want to look over his testimony given to-day, and I may examine him about something further after that.

(At 4 o'clock p. m. the committee adjourned until to-morrow, Friday, May 24, 1907, at 10.30 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS.

UNITED STATES SENATE,

Friday, May 24, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF DR. FREDERICK J. COMBE—Continued.

By Senator WARNER:

Q. You spoke yesterday, Doctor, of having a letter from Major Penrose with respect to the testimony of Mr. Voshelle, in which he swears, in substance, that you said in conversation with Major Penrose in relation to the Evans affair, "If there is not an arrest made between this and 11 o'clock every enlisted man seen on the streets will be shot." Is this the letter [handing letter to witness]?—A. (After examination.) Yes, sir.

Q. That letter has considerable else in it. Just read that part of the letter in which he refers to the testimony of Voshelle.—A. I will read this part:

I recall our entire conversation on the afternoon of August 13, when you called on me, accompanied by Mr. Evans, perfectly, and the affidavit of Voshelle that you said to me during this call that "If there is not an arrest made between this and 11 o'clock every enlisted man seen on the streets will be shot" is a deliberate lie, and you are at perfectly liberty to write Senator Culberson that I so characterized it. I have even thought of writing to the Senator myself, but have concluded that if he desired this information from me he would have written and requested it. I will be glad to write to him, however, if you so desire it.

Q. That covers that part of it?—A. Yes, sir. Then, there is one other paragraph in the letter that I would like to read:

After this private talk with me, you and Mr. Evans drove out of the garrison. The conversation took place about half past 5 o'clock in the afternoon. No one could possibly have overheard our talk, for with the exception of a gentleman and two ladies who passed us while we were talking, and our conversation ceased while they passed, there was certainly no one else that came near us. Had Voshelle passed I certainly would have noticed it, and it is equally certain we would not have talked before him. No; the man is simply a liar, and should be brought to justice.

By the CHAIRMAN:

Q. That letter is signed by Major Penrose, is it?—A. Yes, sir.

By Senator WARNER:

Q. You have spoken about a reward being offered by the governor of Texas of \$500?—A. Yes, sir.

Q. Have you that proclamation with you of the governor?—A. No, sir.

Q. Do you remember whether that was a reward for the detection of the parties who did the shooting, without naming soldiers, or anyone else?—A. I do not remember positively, but I do not think it had special reference to soldiers.

Q. As to the \$10,000 canard, you say there was nothing in that, so far as the people of Brownsville were concerned?—A. No, sir; and I

have telegraphed for the name of that gentleman, and will get it later and give it to the committee.

Q. But no such action was taken, or contemplated?—A. I am positive no such action was taken.

Q. Or contemplated?—A. Or contemplated.

Q. You said to me something, Doctor, after you got off the stand yesterday, with reference to the fence on the south side of the Yturria house.—A. Yes, sir.

Q. That is a part of the fence in front of the kitchen part, or back part, of the house?—A. Yes, sir. I would like to correct that statement.

Q. What is your statement?—A. Simply that it is a board fence. My memory has been refreshed, and there is a board fence there instead of a picket fence.

Q. If you remember, what was the height of that fence?—A. I do not think that it is over 6 feet.

Q. It may be more or a little less?—A. Yes, sir; it may be less.

Q. That has since been replaced by an iron fence? Do you know that fact?—A. Not the board fence. A part of the fence running back from the corner has been replaced, but not all the way back to the alley. There is more board fence than there is iron fence.

Q. With reference to the Mexican soldiers coming across from Matamoros, did they come across, any of them?—A. It is almost impossible for them to have come across.

Q. Why, Doctor?—A. Well, in the first place, they are kept under guard. The Mexican soldier is recruited, as a rule, from the criminal class, and he is not allowed the liberty of an American soldier. He is kept in his cuartel—barracks. He can not get out. Then, there would be no reason whatever for their coming over there. There is no bad feeling existing between the people there.

Q. I mean visiting, as our soldiers went across to Matamoros.—A. Some of them, the noncommissioned officers, are allowed to come over to Brownsville in the daytime. I have never seen one in Brownsville at night.

By Senator FRAZIER:

Q. Does that ferry run across there at night as well as in the day?—A. All night and all day.

Q. It is just one ferry, I believe you said?—A. Yes, sir.

By Senator WARNER:

Q. You spoke of the number of the policemen who spoke the English language.—A. Yes, sir; I can name them.

Q. I would like to have you tell me how many there are?—A. There are at least five that speak English well.

Q. All of the others are American citizens?—A. Yes, sir.

Q. State if it is not a fact, Doctor, that many of the American citizens there who are of Mexican birth understand when you talk to them in English, what you are saying, but will not attempt to speak the English language?—A. That is so.

Q. That is quite common?—A. Yes, sir.

Q. And these others besides the five who could speak English could understand, and could they speak some English?—A. Yes, sir.

Q. Those who understand ordinary questions?—A. Yes, sir; with

the exception of one or two men, almost every one of them understands a little English.

Q. But that matter which I have spoken of, about their not attempting to speak our language, is quite common among the citizens there?—A. I think it is; yes, sir.

Senator WARNER. That is all, I think.

By Senator FRAZIER:

Q. Doctor, have you had some experience as a physician in the examination of gunshot wounds?—A. Some; yes, sir.

Q. Can you tell, from the examination, the character of the wound, whether it is made by a projectile fired from a high-power gun or not?—A. The difference between a wound made by a high-power gun and one made by a gun that uses black powder?

Q. Yes.—A. Yes, sir; almost always.

Q. Did you examine the two wounds in this case? I believe you said there were two.—A. Yes, sir.

Q. In the body of this man, Frank Natus, who was killed at the Tillman saloon?—A. Yes, sir.

Q. From your examination of those wounds and from your experience as a physician, how, in your judgment, were those wounds made, by a projectile fired from a high-power rifle or otherwise?—A. I have already expressed my opinion that I thought it was inflicted by a high-power rifle.

Q. Just explain why you reached that conclusion. What was the nature and character of the wound that led you to that conclusion?—

A. Both the orifices were very small. What I took to be the orifice of exit—and you could hardly tell the difference between the two—was not very much larger than the end of that lead pencil [indicating], a clean-cut wound; and that led me to the conclusion I have mentioned, because if it had been inflicted, for instance, with the old Springfield rifle, the orifice of entrance, first of all, would have been larger, and secondly, the tearing process at the orifice of exit would have been much more pronounced with a projectile that used the black powder. That is what mainly led me to that conclusion.

Q. Did I understand you correctly when I understood you to say that this man had two gunshot wounds in him?—A. Yes, sir; made by the same bullet.

Q. Both made by the same bullet?—A. Yes, sir.

Q. You mean he had one where the bullet entered and one where it went out?—A. I am not an expert in these matters.

Q. You have had some experience with gunshot wounds, however?—A. Yes, sir.

Q. You spoke yesterday with reference to some feeling that existed in Brownsville with reference to the Evans affair, growing out of the Evans affair. Now, did you know that the negro soldiers had been denied to drink at the bars with the white people in the city, or at some of the bars?—A. Yes, sir.

Q. You knew of that fact?—A. Yes, sir.

Q. You knew of the fact that the negroes had been excluded from the bars?—A. Yes, sir. The barkeepers treated them very kindly, and told them that it would ruin their business for them to drink at the bars, and that they would make separate bars for them, if they did.

Q. Did you know of any feeling, or had you heard of any feeling, existing on the part of the soldiers growing out of this alleged discrimination at the bars and out of the Tate affair and other incidents just preceding the shooting?—A. Regarding the barroom question, I had heard that the soldiers were disgruntled because they were not allowed to drink at the same bars; and in the Tate affair everybody assumed in Brownsville that this soldier had done wrong to jostle this lady off of the walk.

Q. Had you heard of any expressions on the part of soldiers indicating that they were mad or disgruntled at this treatment?—A. The soldiers? No; not on the part of the soldiers. The talk that I heard was on the part of the citizens.

Q. That is, you heard citizens speaking of the fact that the soldiers were disgruntled?—A. No; no, sir. I heard the citizens say that Mr. Tate was right in knocking this man down for his action towards these white ladies, and that if he had been a white man he ought to have been treated just the same way. That was the conversation, more or less. That created some feeling against the soldiers, in that way.

Q. You did get the information that the soldiers were disgruntled, or dissatisfied, about their treatment at the bars?—A. They expressed themselves so, and it was common talk.

Senator WARNER. That is all.

By Senator FORAKER:

Q. What did they say, Mr. Mayor?—A. I could not positively say, except that they felt that they were not treated right in not being allowed to drink at the bars; that they were just as good as the whites.

Q. Is it not a fact that they made no opposition to that regulation, but conformed to it?—A. I do not know that they made any opposition.

Q. There were Mexican saloons for them to go to?—A. They did go to them.

Q. And they did go to those saloons?—A. Yes, sir.

Q. They had no trouble about getting what they wanted?—A. No, sir.

Q. As a matter of fact, they drank very little, did they not?—A. No, sir; it was brought to my attention, and Major Penrose upbraided me, in a measure, for not calling his attention to it sooner, that they were disorderly down in the lower part of town, near Mr. Dennett's residence, on the sidewalk.

Q. I am not speaking of being disorderly, but of drinking.—A. They did drink some.

Q. Did they drink in the saloons much?—A. Not on Elizabeth street. Not on the main streets.

Q. Did they do any more drinking than the white soldiers?—A. I do not think so.

Q. As a matter of fact, was not their conduct rather better than that of the white soldiers?—A. Senator, not latterly; not after pay day. The reports—

Q. When was pay day?—A. On the 5th or 6th of the month.

Q. It has been testified that it was on Saturday, the 11th, only two days before the shooting.—A. I can not tell you about that.

Q. Their conduct was good up to pay day?—A. As far as I was concerned there was no report that they were especially unruly.

Q. Was there a single arrest made of any soldier except one on pay day?—A. I think there were one or two arrests. I tried one man, but I do not remember the exact date.

Q. Your policeman, Victoriano Fernandez, has testified that he did duty on Elizabeth street. That was his beat?—A. Yes, sir; that was his beat.

Q. And that all the time he was there he did not see a single drunken soldier.—A. They did not frequent that part of town. The barrooms they went to were in another part of town.

Q. As a matter of fact, there was nothing that came to your knowledge about it?—A. No, sir; not until after this affair.

Q. Now, let us go to the wounds you found on Frank Natus.—A. Yes, sir.

Q. I understand you to say that the projectile that killed him entered on one side of his body and came out on the other?—A. Yes, sir.

Q. That the orifices were so similar in appearance that it was with difficulty you could tell on which side the entrance was and on which side the exit?—A. Yes, sir.

Q. Were you right certain that you did definitely determine that?—A. I never have definitely determined it, and so have expressed myself.

Q. They were exactly alike, so far as you could tell, in appearance?—A. I thought the orifice on the left side was a little more everted—turned out—and that made me state at the Penrose court-martial that I thought the left orifice was the orifice of exit.

Q. But these orifices were not larger than, apparently, a pencil would make?—A. A little larger.

Q. But the wounds were perfectly smooth, were they not?—A. With the exception of the one on the left side.

Q. Which showed a little indentation?—A. No, sir; eversion.

Q. That makes you think that it went in on the left side and came out on the right side?—A. That is what made me think so.

Q. And there was nothing torn?—A. No, sir.

Q. Or ragged about the wound?—A. No, sir.

Q. You said you judged, on account of the appearance of these wounds, that he had been killed with a projectile fired from a high-power rifle?—A. Yes, sir.

Q. And you referred to your experience in the Army to support you in that opinion. Did you have experience there?—A. I had some experience there.

Q. To what extent did you have experience?—A. My experience as surgeon was mostly as an executive officer, and my experience in seeing these wounds was mostly at the battle of Santiago.

Q. That was in Cuba?—A. Yes, sir.

Q. Did somebody get killed, there?—A. Yes, sir.

Q. Let us find out how many of them you saw.—A. Oh, I don't remember.

Q. Did you see many of them?—A. I saw some of them; yes, sir.

Q. In what way did you see them?—A. They were brought in from the field and put on the operating table.

Q. Did you treat them?—A. No, sir; I just dressed them and kept sending them back.

Q. Did you see their wounds?—A. Some of them; yes, sir.

Q. At what distance from the Spaniards were those soldiers whose wounds you dressed at Santiago, when they were struck with those projectiles?—A. They were a long distance. I suppose the majority of them were at a long distance. Some of them, when they went up the hill, were pretty close.

Q. How close did some of them get?—A. I don't know; the records will show that.

Q. From what commands did you see men who were wounded?—

A. I was right in the center, with General Kent.

Q. With General Kent?—A. Yes, sir.

Q. What troops did he command there?—A. I do not exactly remember. He had the First Volunteer Cavalry, Colonel Roosevelt, and he had the First and Tenth Cavalry, I believe. I do not remember, now.

Q. Can you tell us whether you ever dressed a wound, or examined a wound, made by a projectile fired from a high-power gun, which projectile struck the party at a close range?—A. Yes, sir; in the Philippines I had some little experience.

Q. Tell us about Santiago, first.—A. No, sir; except to look at them as they were brought in, and dress their wounds, and send them back.

Q. You could not describe from them?—A. No, sir; not from those cases.

Q. Did you have any experience in that way in the Philippines?—

A. Yes, sir; we had men wounded in those skirmishes, going through the trails in the jungle.

Q. At what distances were they shot?—A. I was not present in any engagement.

Q. How far were they shot from?—A. Anywhere from at close quarters to three or four hundred yards.

Q. How many such cases did you see?—A. I remember one case, that of Lieutenant Leaf, whose leg we had to cut off. I do not remember individual cases, except that I saw them in the hospital.

Q. Now, Lieutenant Leaf, before we get away from him, tell us about that. We have there a specific case.—A. Yes, sir.

Q. At what distance from the party firing was he when he was wounded?—A. It was never known.

Q. What?—A. It was not known what distance the fire was from.

Q. It might have been a long distance or a short distance, so far as you know?—A. Yes, sir; because his leg was shattered.

Q. Can you tell us of any case where the wound was inflicted within a range of four or five hundred yards?—A. Not except those cases that I have referred to that were being dressed in the hospital, and the records of the hospital will show as to them. I can not say. The ones at Santiago were, as I say, men who were brought in, and they were shot through different parts of the body.

Q. They were mostly at longer range, as I understand it?—A. Longer ranges. There is one other case I would like to call your attention to.

Q. Very well.—A. When I went to Fort Sam Houston to go before

the Penrose court-martial, after I had given my evidence, I met a surgeon, an old friend of mine, and I told him about this case, and the nature of the wounds, and he said that it was not unusual at that range for just such wounds to occur; that he had one such case himself.

Q. Who was that?—A. Major Snyder, at Fort Sam Houston.

Q. Major Snyder?—A. Yes, sir.

Q. Where did his case occur?—A. At Fort Sam Houston.

Q. Fort Sam Houston?—A. Yes, sir.

Q. Have you any personal knowledge of that case?—A. He took me and showed me the spleen, I think it was, which he had preserved to show the lateral force of the bullet as it went through the soft tissues.

Q. Was there any lateral explosive effect?—A. Within the body, yes, sir.

Q. Did that manifest itself at all in the orifices?—A. In his case, no, sir; and he expressed the opinion that it was not unusual, at a certain distance, for the bullet to have that effect.

Q. While you were in the service did you ever study the subject of explosiveness?—A. No, sir.

Q. At different ranges?—A. No, sir; I have seen some little literature on it, but have never studied it.

Q. We have some official literature on it, which I shall call your attention to. We have a work here called "Small Arms Firing Regulations." (1906.) I read from paragraph 413, page 170:

43. Dependent mainly upon the changes in velocity, three zones of effect are noted in examining the penetration of the small-caliber bullet. The explosive zone, where an effect of that nature due to the lateral or centrifugal transmission of the shock of impact, is produced, occurs for high velocities, and therefore is confined to the shorter ranges, not exceeding about 300 or 400 yards. Following this latter range, up to about 2,000 or 2,500 yards, the bullet perforates more cleanly, making generally a smooth, clear hole in human bodies as well as in other objects that it completely perforates. At more extreme ranges the effect of the bullet is to produce a contused wound.

A. Yes, sir.

Q. As I understand that, up to a distance of from 300 to 400 yards, the bullet, owing to its motion in the air, dependent upon its velocity, makes a ragged and ugly wound?—A. Yes, sir.

Q. And up to 2,000 or 2,500 to 3,000 yards it makes a clean wound?—A. Yes, sir; up to 500 yards, I believe, is called the explosive zone.

Q. Yes; and it tears and mangles?—A. Not necessarily. You did have an explosion in this case; the man was not cut open to examine the intestines, and so forth, but unquestionably from these other cases there was this effect, and I believe it can also be shown in surgical literature—

Q. Let me interrupt you there. Do you mean to tell us that there was probably an explosion inside of this man?—A. The ball in its course has a certain lateral force to cause a tearing up inside; yes, sir.

Q. It would go in, making a perfectly smooth wound, and then explode and tear around?—A. They do not explode; no, sir.

Q. You used that word, did you not?—A. I used the expression "lateral force."

Q. You think it might have that operation inside of him, and then

quiet down and come out without making any tear?—A. It does not quiet down.

Q. It makes a smooth wound?—A. The velocity is so great that the lateral force is what causes this tearing, and I think I can cite from surgical literature, if I can find the book I want, to support me.

Q. The books are full of it, Doctor. Do you think you can find in all the official reports of the surgeons of the Army where a high-power wound of the character you describe has been made by a projectile that was fired at a distance of only a few yards?—A. Yes, sir; I believe so. There is one case that I have cited.

Q. If you can find one I will be very much obliged to you; I would like to have the benefit of it.—A. I have one case, that which Major Snyder spoke of.

Q. Is that in an official report?—A. Yes, sir; it is in the record of the hospital.

Q. Where?—A. At Fort Sam Houston.

Q. That is the case you spoke of?—A. Yes, sir.

Q. What is the name of that physician?—A. Maj. Henry D. Snyder.

Q. When did it occur?—A. I do not remember the date, but I think it occurred last year sometime.

Q. Last year sometime?—A. Yes, sir.

Q. How did that man happen to be shot?—A. I do not remember the details.

Q. Where was he wounded? What part of the body?—A. He was shot in the body somewhere; I do not know just where.

Q. The bullet went through the tissues, did it?—A. Yes, sir.

Q. It did not go through bones?—A. No, sir.

Q. Do you think of any other case than that?—A. No, sir.

Q. As a matter of fact, that is the only case of the kind you ever heard of, is it not, Doctor, until you came to the case which we are now speaking of?—A. Yes, sir.

Q. And you tell us that you came to this conclusion because of your experience with high-power wounds while in the service?—A. Yes, sir; I came to that conclusion. I had heard of them and came to the conclusion from my examination of both of these wounds that they could not have been inflicted by a slow-powder or black-powder projectile.

Q. You think that it could not have been inflicted with any other kind of gun?—A. Not with the ordinary rifle which shoots black powder. That tearing-out process would have been unmistakable.

Q. Could it have been inflicted by a shot from a revolver?—A. With black powder?

Q. Black or white.—A. It could have been inflicted by a shot from a high-power revolver—a Colt automatic—at that range. I should think; yes, sir.

Q. What kind of revolver shots were these, probably, that you first heard fired, when you were first awakened—the first shots?—A. As I said before, I heard .45-caliber pistol shots by the policeman—I thought it was the policeman afterwards when I heard that he was in that part of town—and I heard the shots back of me, to right and left, evidently shooting in the air, and I heard what I have stated what I thought to be a small-caliber automatic pistol.

Q. What kind of a pistol was that?—A. I do not know; I just heard the rapid popping noise.

Q. What do you mean by an automatic pistol?—A. A pistol that you just pull the trigger, and it goes. I do not mean an ordinary double-action pistol.

Q. So that you heard a good many shots, altogether?—A. Not a good many; I heard some.

Q. How often did you hear shots from this automatic pistol?—A. Just once. The shots I heard were the ones as I was coming down the street towards the firing, at my right, mostly; some to the rear and left.

Q. As you were coming down the street, coming towards the fort?—A. Yes, sir.

Q. And these shots were over towards the river, from Elizabeth street?—A. No, sir; on Elizabeth street, to the right and left, as I went down, coming down Elizabeth street.

Q. Would that be to the right or left?—A. To my right, and to my left and rear.

By Senator FORAKER:

Q. These first shots you think were fired by the policemen out of their pistols?—A. From what I have heard since I suppose it was Padron—just that one. I do not remember whether there were four or five shots—

Q. I am speaking of the first you heard.—A. No; they were away down in the lower part of the town. The reports of the .45-caliber pistol I have spoken of, that I heard afterwards, were mixed up. There was volley firing, but I could hear the boom of the .45 in contradistinction to the sharp, quick sound of the other.

Q. Mixed in with the rest of the shots?—A. Yes, sir.

Q. First one and then the other. As to the pistol shots, did you make any effort as to finding out who had fired those pistol shots?—A. Yes; I found out that Padron had.

Q. Those were the first you heard?—A. Not the first. I heard four or five pistol shots immediately followed by the—

Q. Did you find out who that was?—A. No, sir. We all supposed that that came from the garrison, afterwards. It was farther away, the last shots we heard.

Q. What I am trying to get at is whether you made any effort to find out who fired those first four or five pistol shots.—A. None; except two or three days afterwards we were talking, and Mr. Rendall said he had heard pistol shots.

Q. Did he say that he had heard pistol shots from the garrison?—A. He thought that he had heard pistol shots, or something of the kind, and I came to the conclusion that those shots were from in the garrison.

Q. And therefore you made no further examination?—A. No, sir; no further investigation.

Q. If you will find any case where a wound such as you describe is officially reported, made by a high-power projectile, at so short a range, I hope that you will furnish it.—A. Yes, sir; and I believe Major Snyder would be a very material witness before this committee.

Q. I do not think, when you come to that, that we will have any lack of testimony on the general subject. I believe that is all.—A. Yes, sir.

By Senator WARNER:

Q. Major Snyder is an army surgeon?—A. Yes, sir.

Q. How long has he been in the service?—A. Twelve years.

Senator WARNER. That is all.

By Senator FORAKER:

Q. Did you examine this hole in Mr. Preciado's coat?—A. No, sir.

Q. You did not look at that?—A. No, sir.

Q. And you did not see any hole in that hat that was handed to you which Ramirez claimed?—A. It was at night, and he himself did not know that the hat was shot.

Q. What would be the effect upon you, for instance, of a bullet going so close to the top of your head—one of these high-power bullets—that it would practically cut your hair, or come within a half inch of it?—A. Have you reference to the hat or the man?

Q. No; I had reference to you—the individual. Let us take somebody else. I do not want to be personal about it at all. Suppose a high-power bullet should be shot through a man's hat so close, should pass over his head so close to the top of it, that it would virtually touch his hair?—A. It would knock his hat off, I suppose.

Q. Would there not be a concussion or effect produced on the individual to whose head it came so close?—A. With a high-power gun? I do not know but with a high-power ball of that kind there ought to be some effect.

Q. It has been testified that if a ball would go through this room, for instance, it would move all the papers on the table.—A. I do not know about that.

Q. Not this room, but the one where we had our hearings before—downstairs.—A. That I can not say; I do not know.

Q. You can not tell what the effect would be?—A. No, sir.

Q. Crixell's saloon is right opposite the Tillman saloon?—A. Almost right in front of it.

Q. Do you know of any bullets being recovered, except those which have been sent to us?—A. Since then?

Q. No; since the firing—any bullets being recovered?—A. There was a bullet cut out of a post in front of Crixell's saloon, and there were pieces not only of lead, but pieces of the jacket like some of these rifle bullets have—steel-jacketed bullets.

Q. Did you see that bullet?—A. Did I see it?

Q. Yes.—A. No, sir; there was a man there who got the pieces, and the chief of the police reported it to me, and when I went to find them he had lost them or done something with them. That was simply hearsay.

Q. Do you know who that man was?—A. If my memory bears me out, it was this same José Garza.

Q. Who cut it out?—A. I think that was the man. The chief of police knows who the man was.

Q. When was that cut out?—A. Some time after the firing.

Q. Can you give us the date?—A. No, sir.

Q. Did not the report come to you that they found pieces of the steel jacket?—A. Yes, sir; and that is why I made reference to it.

Q. Did you hear of a bullet being cut out by Lieutenant Leckie?—A. Yes, sir.

Q. Is that the same case?—A. I think it is the same case.

Q. Do you know whether it is the same case or not?—A. No, sir; I do not know whether it is the same case or not.

Q. Lieutenant Leckie and one other witness have testified that they cut out a bullet, and there was no steel jacket to it.—A. I understand that.

Q. Do you mean to have us understand that you want to contradict their statement?—A. Not altogether, because I do not know that it is the same bullet.

Q. You do not know that it is the same bullet?—A. No, sir.

Q. Where did that bullet come from?—A. I do not know.

Q. It was fired into that post that night, was it not?—A. I do not know.

Q. Was not that the common understanding?—A. Mr. Crixell and the chief of police can give you more information on that point, but it was the common understanding that it was fired that night.

Q. That is what I am trying to get at. Now, nobody ever claimed that it was lodged in that post any other time than that night?—A. No, sir.

Q. And it had evidently come from across the street, somewhere?—A. Yes, sir.

Q. Did you ever hear of any firing being done on Elizabeth street in front of Tillman's saloon?—A. In front?

Q. Yes.—A. That night?

Q. Yes. The firing was all in the rear, was it not?—A. I never heard of any firing in front.

Q. There was no firing that you heard of in front?—A. No, sir. The ball could have come right from the saloon, from the alley, right through the courtyard.

Q. That is, from the alley, through the courtyard, the ball could have come right through to Crixell's?—A. Yes, sir.

By Senator BULKELEY:

Q. Were you in Tillman's saloon any time the night of the 13th?—A. Yes, sir.

Q. Did you enter from Elizabeth street?—A. Yes, sir.

Q. And you passed through into the courtyard where this dead man was?—A. I went there with the justice of the peace.

Q. How was the courtyard—shut off from the saloon, do you remember?—A. There is a large door something like that [indicating] that opens into the courtyard, and there is a screen on one side, but I do not know whether the screen was up that night. The negro soldiers were not using the bar, and I do not know whether they took the screen away or not.

By Senator WARNER:

Q. When you say "a large door" you mean a double door?—A. I think it is a double door; yes, sir.

By Senator BULKELEY:

Q. Was it a swinging door?—A. No, sir; it was wide open.

Q. It was not a swinging door?—A. No, sir; it was on hinges.

Q. Do you mean that there was a screen sometimes standing in front of that door?—A. A movable screen put there to separate the bar of the white men from that of the negroes.

Q. Does that stand in front of the door? Is that what you mean?—A. No, sir; it stood at the end of the counter of the bar.

Q. It did not cross the door at all; it did not interfere with the door?—A. No, sir; I do not remember its being there that night. It may have been moved to one side.

Q. But it was nothing that obstructed the door?—A. I do not think so.

Q. Did it divide the bar in the center?—A. With reference to that screen, I do not remember. It may have been pushed to one side. We had free ingress and egress.

Q. You say, "Pushed to one side." Do you know where it usually stood?—A. Yes, sir.

Q. Where did it usually stand?—A. At the end of the bar.

Q. In relation to this door, did it have any relation to the bar?—A. No relation to the bar whatever.

Q. It was not in front of the bar, or anything of that kind?—A. No, sir.

Q. Was this a door that when opened closes itself, or did you have to close it?—A. It was an ordinary double door; a thick door; a heavy door.

Q. You do not know whether it closes itself or not?—A. No, sir.

Senator SCOTT. He means a swinging door.

The WITNESS. It was not a swinging door.

By Senator BULKELEY:

Q. Many of our doors have heavy springs on them, which close them.—A. No, sir; this had no springs.

Q. Do you know whether or not when you went out you had to open that door? Do you recollect, in your passing through the saloon, whether you had to open it?—A. No, sir; the man was dead when I got there.

Q. But you had to go through the saloon?—A. The door was wide open.

Q. The door was wide open?—A. Yes, sir.

Q. You referred, when you were describing the selection of your citizens' committee, to the fact that you endeavored to select the members of that committee from the better class of citizens. What did you mean by that?—A. I meant by that the educated people, the men of influence; instead of selecting them from the Mexicans—the lower class of Mexicans. We have some very good families there, Mexican families, but then we have the laboring classes, and when I said the better class of men I meant the educated class of people.

Q. You separate them from the laboring classes of your community?—A. I do; yes, sir.

Q. Did you have any Mexicans on that committee?—A. Mr. Webb was on it. I think his mother was a Mexican.

Q. What is he, a lawyer?—A. No, sir; he is the county clerk. Then Mr. Celedonia Garza was on it, he is a Mexican; and Mr. Valentin Gravito, he is a justice of the peace.

Q. And the other one?—A. He is the sheriff of the county.

Q. So that you had the sheriff and the justice of the peace?—A. Yes, sir.

Q. The committee were largely Americans?—A. Sir?

Q. They were largely people recognized as Americans. How large was the committee?—A. About 15, I think.

Q. It was largely composed of Americans?—A. Yes, sir; nearly all Americans.

Q. Nearly all?—A. I think Mr. Alonzo was on that committee. He is a Spaniard; he is a merchant.

Q. Is there any difference, in the feeling towards the colored troops there, of the Americans and the Mexicans and the Spanish population?—A. No, sir. The old settlers of Brownsville, the old people particularly, have never had any feeling against colored troops that I know of.

Q. It is more confined to the white people than the Mexicans, is it not?—A. The newer class of white people, who have been coming in there, if there is any feeling at all.

Q. If there is any feeling it is among the white foreign class or the Mexicans and Spaniards?—A. Yes, sir.

Q. We have had a good deal of dispute about the length of these blocks. Can you tell us anything about how far it is from the center of Elizabeth street to the center of Washington street, or what is the length of any block between any of those streets there? How far is it from the center of Elizabeth street to the center of Washington street?—A. From the center?

Q. Yes.—A. From there to the corner is 30 feet [indicating on map].

Q. It is how wide?—A. It is 60 feet from wall to wall, 40 feet from curb to curb.

Q. Forty feet from curb to curb?—A. Yes, sir. The distance would be 30 feet, and 120 feet, and 20 feet, and 120 feet, and 30 feet.

Senator SCOTT. That is 320 feet?

By Senator FRAZIER:

Q. That is, from the center of Elizabeth street to the center of Washington street would be 320 feet, would it, you think?—A. Yes, sir.

By the CHAIRMAN:

Q. Let me ask you, while you are on that, what the length of the block is running the other way, taking it from the center of any numbered street to the center of the next numbered street?—A. These streets are 40 feet wide, the numbered streets.

By Senator WARNER:

Q. That is, Twelfth, Thirteenth, and Fourteenth streets?—A. Yes, sir.

By the CHAIRMAN:

Q. The blocks are 300 feet in the clear?—A. Yes, sir. There are six lots, 50 feet frontage.

Q. Then the blocks are 340 feet one way and 320 feet the other way, from center to center?—A. Yes, sir.

By Senator BULKELEY:

Q. Take it along Washington street and Elizabeth street and Adams street, are there trees along those streets, along the sidewalks, or somewhere? Can you locate them?—A. Yes, sir.

Q. Along Adams street, and those wide streets, are there trees along those wide streets?—A. On Washington street?

Q. Take Twelfth street; that is the farthest street.—A. From this square—

Q. That is Tillman's saloon, is it not?—A. Yes, sir; right here.

By Senator WARNER:

Q. When you say "this square," there is nothing in the record. Say just what it is that you refer to.—A. Between Eleventh and Twelfth streets, on Washington street, there are some very heavy ash trees, right along here [indicating].

By Senator BULKELEY:

Q. Are they at the edge of the sidewalk?—A. Yes, sir; they are large trees.

Q. Now, go along down Washington street.—A. Then on this side street there are trees here [indicating] on this square. That is on Twelfth street. There are some trees on Washington street between Eleventh and Twelfth, on both sides of the street right here [indicating]. Then on Washington street, between Thirteenth and Fourteenth, there are trees on both sides of the street here [indicating], which made quite a shade.

Q. Down towards the garrison, towards Fourteenth street?—A. Yes, sir; and along here also, on Washington street, between Fourteenth and Fifteenth streets.

Q. So that from the street that we call Garrison road, or Fifteenth street, along Washington street, there are trees along both sides of the way?—A. Yes, sir.

Q. Now, following down the Garrison road to the alley, are there any trees there? I mean right down here from Washington street [indicating]?—A. Yes, sir; there are trees there.

Q. So that there is a row of trees to the alley?—A. Yes, sir; to the alley.

Q. Follow on down to Elizabeth street, from the alley, right along down to the gate, now.—A. I do not remember, except that there are some oleander bushes in that yard, or something of the kind [indicating].

Q. Now, we come down to the alley. Are there trees on the alley?—A. None, except there is the shade of the trees in the Yturria yard.

Q. Now, take Elizabeth street, commencing at the gate of the garrison, and follow up, and tell us about the trees there, if you can?—A. I do not remember any trees on this side of the street here, on Elizabeth street; that is, between Fourteenth and Fifteenth streets [indicating]. There is one tree, I think, on the left-hand side as we go

uptown, between Fourteenth and Thirteenth streets, in front of Mr. Brown's residence. There is a large tree in front of Mr. Kowalski's office, on the right-hand side of the street as you go uptown, between Thirteenth and Fourteenth. In front of Doctor Thorn's office there are several trees.

Q. Is there anything in front of the Miller Hotel?—A. No, sir; there are no trees in front of the Miller Hotel now.

Q. Were there at that time?—A. No, sir.

Q. Doctor Thorn's is near the Miller Hotel, is it?—A. Yes, sir; the next house.

Q. So that up to the Miller Hotel there are quite a number of trees on that block on that side of the way?—A. Yes, sir.

Q. Good-sized trees?—A. The trees in front of Doctor Thorn's are not very large, but the one in front of Kowalski's—

Q. How large are they—as high as this room?—A. Oh, yes, sir; higher than this room.

Q. Now take it from Thirteenth to Twelfth streets.—A. There are no trees there.

Q. No trees there?—A. No, sir.

Q. Are there any trees on Fourteenth street between Elizabeth street and Washington street?—A. Yes, sir.

Q. Tell us how that street is shaded?—A. You are taxing my memory now.

Q. You can tell us what you remember. If it does not occur to you, that is all right.—A. There are trees in front of the Cowen house and in front of the Yturria house on Fourteenth street, between the alley and Elizabeth street.

Q. How big are the trees in front of the Cowen house?—A. And there is one in front of the Leahy Hotel on Fourteenth street; that is a large tree.

Q. How far from the rear of the Leahy Hotel there?—A. It is anywhere from 10 to 20 feet from the alley.

Q. From the rear?—A. From the corner of the alley.

Q. Now the others—what kind of trees are they there?—A. There is an ash tree [indicating].

Q. A large, spreading tree?—A. Yes, sir.

Q. A good-sized, spreading tree?—A. Yes, sir; it was cut down the other day, but it was a tree of 18 inches or 2 feet in diameter.

Q. How high were the branches from the ground would you say—I mean from where they started?—A. Oh, I don't remember.

Q. No matter about that. As high as your head?—A. Yes, sir; as high as my head.

By Senator LODGE:

Q. Is that tree between the Leahy House and the alley [indicating]?—A. I do not remember. There is a little gate that opens out on Fourteenth street from the Leahy Hotel.

Q. It was not in front of the Leahy House here [indicating]?—A. No, sir; towards the alley.

Q. What kind of trees are there in front of the Cowen house? You said there were some there.—A. There is a tree there; it is not a very large tree.

Q. How large is it?—A. And there are two over here.

Q. How large a tree is the one in front of that house?—A. Oh, it is about 10 inches in diameter, possibly, and I do not know how high; I can not tell you.

Q. As tall as the house?—A. It is right in front of the house.

Q. It is right in front of the house, and the house is not a very high house?—A. No, sir.

Q. Is the tree as high as the house?—A. I do not know; about as high.

Q. About as high as the house?—A. Yes, sir.

By Senator LODGE:

Q. Is this photograph of the Cowen house and the tree correct [handing witness photograph]?—A. Yes, sir; that is correct.

Q. This photograph in part 2 of Senate Document 155 shows the tree at the corner, a small tree?—A. Yes, sir; that is correct. I told you my memory might not be correct.

By Senator FORAKER:

Q. That shows the tree right on this corner [indicating on map]?—A. Yes, sir.

Q. Right here?—A. Yes, sir.

By Senator BULKELEY:

Q. I want to know what trees there are there. I do not care where they are located; I only want to get a general idea of it.—A. That tree is right here.

Senator LODGE. We have photographs of that place.

Senator BULKELEY. Let us see what the witness knows about it. I do not know whether the photograph is correct. I have seen some very poor ones.

Senator FORAKER. I have marked the place on the map where he says the tree is at the corner in front of the Cowen house.

By Senator LODGE:

Q. Is that a correct representation of the Leahy House and the tree behind it [handing witness photograph]?—A. Yes, sir.

The CHAIRMAN. You refer to the picture that is in the second part of Senate Document 155?

Senator LODGE. Yes.

The WITNESS. Yes, sir. I said there was a small gate near the alley, and this photograph shows it.

By Senator FRAZIER:

Q. That shows that there are no limbs on that tree until you get an elevation near the top of the Leahy House, does it not?—A. Yes, sir.

Senator BULKELEY. His testimony will show where he locates it. Photographs are not always correct.

Senator LODGE. The witness has testified and he now testifies that the photograph is correct, as I understand it.

Senator BULKELEY. We will go back and have the testimony read, if you want it.

By Senator LODGE:

Q. One moment. I have shown you that photograph.—A. Yes, sir.

Q. Does that correctly place the tree that is by the Leahy House?—

A. Yes, sir.

By Senator FORAKER:

Q. There is a tree in front of the Cowen house, is there not, the one that you told me to mark the place of on the map?—A. Yes, sir.

Q. That is correct, is it [indicating on map]?—A. Yes, sir.

By Senator BULKELEY:

Q. There are trees on both sides of the way, are there not?—A. Yes, sir.

Q. You have pointed them out on the map?—A. Yes, sir; there are one or two trees, as I said, in front of the Truitt house.

Q. And those trees you referred to in the neighborhood of the Leahy House and in the neighborhood of the Cowen house you pointed out correctly?—A. As near as I could.

Q. As near as your memory served you?—A. Yes, sir.

Q. Go on down Washington street. Are there trees between the alley and Washington street?—A. On which street?

Q. On Fourteenth street. I do not expect you to locate every one.—A. I do not remember any trees on the left-hand side of the street going to Washington street. There were two or three elm trees near Garza's residence, on Fourteenth street. They were cut down. I do not know whether they were cut down before the 13th of August or after.

Q. Have you any impression about it?—A. No, sir; he built a shed there and cut those trees down, but when I do not know. I do not remember any trees along Thirteenth street between Elizabeth street and the corner of Washington street.

Q. That is all?—A. But there are trees over here [indicating].

Q. Now, take Twelfth street. Is the condition the same there?—A. Between Elizabeth street and Washington street, on Twelfth street, there are no trees.

Q. Can you tell us about the width of this road that we call Fifteenth street down by the wall?—A. This street [indicating]?

Q. Yes.—A. It is about 30 feet wide.

Q. About 30 feet. And have you participated in the measurement of any of these buildings?—A. Which buildings, those of the garrison?

Q. Of the garrison.—A. No, sir.

Q. I understood that the chairman of the committee addressed a letter to you in regard to seeing that they were measured correctly.—A. The letter read that Matias Tamayo was to arrive in town and that he was to take the measurements with me; and he never came, and I never took the measurements; but I can tell, approximately, the length of those barracks.

Q. About how long are those barracks?—A. Those barracks are—they must be 50 yards long, at least.

Q. About 150 feet?—A. Yes, sir; that is a guess, of course.

Q. Yes. And there is about one-third of the distance between each two barracks of the length of the barracks?—A. Yes, sir; about 50 feet.

Q. About 50 feet, or somewhere in that neighborhood?—A. Yes, sir.

By Senator FORAKER:

Q. I have a picture here which is in part 2 of Senate Document 155. This is picture No. 1, which purports to represent the Miller Hotel as it fronts on Thirteenth street.—A. Yes, sir.

Q. That is correct [handing photograph to witness]?—A. Yes, sir.

Q. That is the mouth of the alley?—A. Yes, sir.

Q. And that is Bolack's store, on the opposite side?—A. No, sir; that is Bolack's store, sir [indicating].

Q. On the opposite side from the hotel. over here?—A. And over here is Mr. Wells's office, diagonally across from the hotel.

Q. The large three-story brick building shown in the picture is the Miller Hotel, the rear end of it, and the alley comes behind that, and then across the alley from the hotel is the Bolack store; so that what we have there is one end of the Bolack store, the mouth of the alley, and the rear of the Miller Hotel, as it fronts on Thirteenth street?—A. Yes, sir.

Q. Can you tell us where the water-closet is located there?—A. Where that end window is.

Q. Where the rear windows are?—A. Yes, sir.

Q. How far is that rear window from the end of the Miller Hotel?—A. Only a few feet.

Q. That is shown in the picture, is it not?—A. Yes, sir.

By the CHAIRMAN:

Q. That is the corner of the alley and Thirteenth street?—A. Yes, sir.

By Senator FORAKER:

Q. About how wide is that, probably?—A. I can guess at it. It is not more, I think, than 10 or 12 feet.

Q. Ten or 12 feet?—A. Yes, sir.

Senator WARNER. What opening is that?

Senator FORAKER. That is the window looking out from the water-closet.

Senator LODGE. In the rear of the Miller Hotel.

The WITNESS. It may be more, or less.

By Senator FORAKER:

Q. Do you know what kind of panes they have in that window? Whether they are ground glass or not?—A. No, sir; they are plain window panes.

Q. Not in any way obscured?—A. Not that I remember. You could always look right in there.

Q. You could always look right in there. Where does the light hang in there?—A. I do not know, sir. They have a light or lantern in there at night.

Q. They have a lantern?—A. A light or a lantern, one or the other.

Q. You do not know where that hangs?—A. No, sir.

Senator BULKELEY:

Q. You testified, I think, that you turned over the shells that were given to you to the sheriff. Did you turn them all over to the sheriff?—A. I retained one in my possession. I retained them, and

afterwards turned them over with the rest of them, and it was very fortunate that I did. I turned them all over to Mr. Purdy, all together.

Q. You turned them over to the sheriff, at first?—A. No, sir. I got one clip afterwards, I do not remember who gave them to me, and I kept them locked in my safe, and General McCaskey wrote to me and asked me to send him the ball cartridges and shells that I had in my possession, to work out the investigations at San Antonio. I went to the sheriff and asked him to let me have them, and he said that he would not let me have them without an order from the district judge. The district attorney advised me not to take them away from the custody of the sheriff, and I then sent what I had to General McCaskey.

Q. You turned the bulk of them over to the sheriff?—A. Yes, sir.

Q. Did you mark those shells in any way?—A. No, sir.

Q. Have you seen them since?—A. Yes, sir; I saw them at the Purdy investigation, and I was asked if they were the same shells, and I said to my best knowledge and belief they were. They looked exactly the same.

Q. Had you any means of identifying them?—A. None whatever.

Q. Could you tell the shells that you turned over to the sheriff from an equal number of other shells?—A. No, sir.

Q. It was not possible to identify them from an equal quantity of the same shells?—A. No, sir. He was the proper officer to whom they should go.

Q. I am not asking that at all. I wanted to see whether you could identify them again.—A. No, sir; I do not believe anybody could identify them.

Senator BULKELEY. That is what I supposed. That is all.

Senator WARNER. Is there any question about these shells that were sent here by the President of the United States and the Secretary of War, that they are not the shells picked up?

Senator BULKELEY. I do not know anything about it. I simply wanted to ask the witness. I did not know what these shells were.

Senator WARNER. I supposed there was no question about them. It is conceded, is it not, Senator Foraker?

Senator FORAKER. Why, yes; I assumed so.

Senator BULKELEY. They were picked up by strangers, most of them, and turned over to the mayor, and he turned them over to the sheriff, and they have been before the Senate committee and before the citizens' committee and before Mr. Purdy, and through all these hands.

The CHAIRMAN. All very reputable hands.

Senator BULKELEY. Oh, yes; of course.

The WITNESS. A very natural course for them to pursue, coming up to this body.

By Senator BULKELEY :

Q. I only wanted to know what you knew of them. You picked up some of these shells?—A. Yes, sir.

Q. Some of them were brought to you by other parties?—A. Mr. Starck picked up some, in my presence. Felix Calderon picked up some, and Mr. Houghton picked up some, and so on.

Q. They have been around through a great many hands in the process of the evolution of the case?—A. Yes, sir.

By Senator LODGE:

Q. You picked up some yourself?—A. Yes, sir; and I was present when others picked up some.

By Senator BULKELEY:

Q. You spoke about recognizing the explosion or report from these high-power rifles, if I remember correctly. If I quote you correctly, you said that you had heard the firing at short range, in the garrison, or at the target practice there.—A. I have heard the Mauser and Krag-Jørgensen rifles at all ranges, and this sounded to me—

Q. I think you stated that you had heard it at the range there.—A. In my evidence?

Q. Yes.—A. I have stated in my evidence before the Penrose court-martial that I said it was rifle firing and military arms, because it reminded me so much of the report of the Krag-Jørgensen rifle, with which I am so familiar.

Q. I am not referring to your testimony before the Penrose court-martial. I am referring to your testimony here, in which you stated that you had heard firing at the target range.—A. The report was so like that of the Krag-Jørgensen that it made me think it was a military rifle.

Q. Do you know whether or not at these short ranges they use the regular ammunition or reduced-range ammunition?—A. I do not know anything about it.

Q. You do not know anything about the reduced-range ammunition which they do use at these short ranges?—A. No, sir; I do not know anything about the guard ammunition.

(Witness excused.)

TESTIMONY OF AMBROSE LITTLEFIELD.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Please give your name in full.—A. Ambrose Littlefield.

Q. What is your age?—A. Twenty-six.

Q. What is your business at present?—A. At present I am in the employ of Lon C. Hill. He is a ranchman in Cameron County. I am employed on the ranch by him.

Q. You have been deputy sheriff of your county?—A. I have been deputy sheriff; I was deputy sheriff up to the time I accepted this position with Mr. Hill.

Q. How long has Brownsville been your home?—A. At present it has been about two years.

Q. Are you a native of Brownsville?—A. No, sir.

Q. Were you in Brownsville, Mr. Littlefield, on the night of the 13th of August last year?—A. Yes, sir.

Q. At the time of the shooting up of the town?—A. Yes, sir.

Q. Where were you stopping that night?—A. At the Rio Grande Hotel. My people were the proprietors of the Rio Grande Hotel, and I was staying there.

Q. By "your people" you mean your father—A. My father, yes, sir; and mother.

Q. Where is the Rio Grande Hotel located?—A. It is on Jefferson street, between Eleventh and Twelfth.

Q. Were you asleep at the time, or were you up, when the firing commenced?—A. Yes, sir; I had just dropped off to sleep.

Q. When you heard the shooting, what did you do, if anything?—A. Probably the first one or two shots I heard I raised up in bed, and then when they fired probably two or three more, I don't just exactly remember, I got up and put on some clothes and went downtown.

Q. Did you fully dress, or only partly?—A. No, no; I believe I put on my shoes, and socks, and pants, and hat, and coat, and that was all.

Q. As you were going downtown from your place, was the shooting continuing; was the shooting going on as you went down from the Rio Grande Hotel?—A. Yes, sir.

Q. In what direction was that shooting?—A. I could not tell exactly where it was, but it was in the direction of the post, the garrison.

Q. But you would not pretend to locate any particular spot?—A. I could not locate any particular spot, but it seemed somewhere about the garrison, somewhere about the end of Elizabeth street; somewhere in there; I could not tell exactly where.

Q. What was the character of the reports of the guns; that is, did you form an opinion as to whether they were high-power guns?—A. I recognized them as high-power rifles.

Q. When you got up you went downtown; tell us just where you went, in your own way.—A. When I left the hotel I went down Eleventh street until I got to the alley between Washington and Elizabeth streets, and I turned down the alley.

Q. You turned down; that is, you mean you turned toward the fort?—A. Towards the post; yes, sir; until I got to Thirteenth street. I went around to Thirteenth street, into Mr. Tate's house.

By Senator OVERMAN:

Q. His house is where?—A. On Washington street. I went around Thirteenth street until I got to Washington street, you know, and then turned into Mr. Tate's house.

By Senator WARNER:

Q. When you got to Washington street you turned to the right, did you?—A. When I got to Washington street; yes, sir; to Mr. Tate's house.

Senator OVERMAN. You turned to the left, did you not?

By Senator WARNER:

Q. I will get it in a moment. This is the Starck house there [indicating on map]?—A. Yes, sir.

Q. And Mr. Tate's house is next to the Starck house, is it not?—A. Yes, sir; Mr. Tate's house is about where that figure "6" is.

Q. And when you got up here to the corner of Thirteenth and Washington streets you turned to the left instead of the right?—A. Yes, sir.

Q. And went to Mr. Tate's house?—A. That is the direction I went; yes, sir.

Q. But what I want now is for you to go back and tell us what you saw that night, if anything, of the shooting, and the parties who did the shooting.—A. When I had got about middle way of Eleventh

and Twelfth streets, in the alley, you understand, between Washington and Elizabeth streets, I seen a shot fired in front of me. That shot seemed to be about the middle of the block between Twelfth and Thirteenth streets. I seen this one shot, and I heard a number of others, probably four or five; I could not recognize just how many, and I stopped there and stood still for probably half a minute; I can not tell exactly the length of time I stood there. When that shot was fired I could see a bunch of people, a crowd of people, in the alley; that was in front of me.

Q. Up towards Thirteenth street?—A. Down towards Thirteenth street, about a block from me. I was in the middle of one block and they were in the center of another. As I told you, I stood there for a little while, and these people came up the alley towards me, probably 20 or 30 steps, until they got within about 20 feet of the mouth of the alley going into Twelfth street, and they turned back there and went towards Thirteenth street again. When I seen they were going that way I followed them on down, and I seen them as they went around the corner of the alley into Thirteenth street, and after they got out of my sight going around the corner from the alley into Thirteenth street I went on down. We were both running against the wall on the right-hand side.

Q. You mean by "running against the wall" that you were close to the wall?—A. Yes, sir; on this side of the alley [indicating], the right-hand side of the alley going towards Thirteenth street. When they got out into Thirteenth street they turned the corner, and they were out of my sight, there, and I did not see them any more, and I had probably run 20 steps when I heard some firing on Washington street, over in the direction of Mr. Tate's house or of Mr. Starck's house, in that direction, and I stopped and stood still again for a while.

Q. You were then near the mouth of the alley at Thirteenth street?—A. Yes, sir; I had passed the Ruby Saloon. I was probably 20 feet passed the door of the Ruby Saloon. I don't just remember. Then I stood there until the firing stopped, and then went on to the corner of the alley and Thirteenth street. I didn't run right out into the street. First, I put my head around the corner to see what was going on in the street, and I seen a bunch of people running diagonally across Washington and Thirteenth streets, in the direction of the corner of Lon Hill's office, diagonally across, you understand [indicating]. I believe that Mr. Porter lives over there.

Q. Well, go on.—A. Well, I seen those people running across there, and as they were passing they passed within about 20 feet, I suppose, of the street lamp, and I seen them. I recognized them.

Q. What did you recognize?—A. I recognized them as United States soldiers, or people in the United States uniforms.

Q. They were how far from the street lamp, then?—A. Probably, when I first seen them, they were 20 feet.

Q. And where were you at that time, Mr. Littlefield?—A. I was in the mouth of the alley, between Washington and Elizabeth streets, at the corner, you know, of Thirteenth, where the alley runs into Thirteenth street.

Q. You recognized them as United States soldiers, you say?—A. They had on United States uniforms; yes, sir.

Q. Could you at that time recognize as to whether they were dark colored men or not?—A. There was one of them that I distinctly recognized as being a colored soldier; yes, sir.

Q. What enabled you to distinctly recognize one of them as being a colored soldier?—A. Well, as I was standing there and looking at them, this one turned his head and looked back the way they had come, back towards me, and he was looking towards me, and when he looked back that turned his face directly towards me.

Q. So that the light—A. The light was shining directly in his face; yes, sir. He had then run past the light and the light was rather between him and me.

Q. And you there recognized him as a colored soldier?—A. Yes, sir.

Q. At that time?—A. Yes, sir.

Q. Just state again where you were standing when you recognized him as a colored soldier.—A. I was standing in the mouth of the alley between Washington and Elizabeth streets, where the alley runs into Thirteenth street.

By Senator OVERMAN:

Q. And this man was under the light at the corner of Washington and Thirteenth streets?—A. Yes, sir.

By Senator WARNER:

Q. About how many were there in this party in which you distinguished this man?—A. I could not tell you exactly; I never counted them; there were probably from five to seven; something like that.

Q. You waited there a time?—A. I can not tell you just exactly how long I stayed there; until they got out of sight. There are some trees over on Mr. Porter's corner, and they ran under those trees and got out of sight, and I stood where I was at until they got out of my sight.

Q. Then you went to Mr. Tate's house?—A. Yes, sir; but first I made a mistake as to his house and I went to Mrs. Putegnat's house, the house beyond his, and I woke some of them up there—stirred them up. It was rather hard to get them to the door, but then I found my mistake, and I turned back and went into Mr. Tate's house.

Q. You had no doubt in your mind about those being negro soldiers that you saw?—A. No, sir.

Q. In the uniforms?—A. No, sir.

Q. And this one man especially you recognized?—A. Yes, sir; one man I recognized distinctly as being a negro soldier.

Q. About how many shots, altogether, did you hear?—A. Altogether, during the night?

Q. Yes; approximately.—A. I should judge something over 100.

Q. And I think you have stated that those shots, you thought, were from high-power guns?—A. Yes, sir.

Q. Army guns?—A. Yes, sir.

Senator WARNER. I believe that is all.

By Senator FRAZIER:

Q. Did you notice these men as they ran across under or in front of the light, across Washington and Thirteenth streets, as to whether they had guns with them, or did you notice the guns?—A. Yes, sir; they had guns.

Senator FRAZIER. That is all.

By Senator FORAKER:

Q. Are you a native of Brownsville?—A. No, sir.

Q. Where were you born?—A. In Gonzales County, Tex.

Q. How far is that from Brownsville?—A. Three hundred miles, I think.

Q. How long did you live there?—A. In Gonzales County?

Q. Yes.—A. I stayed there until I was probably 15 years old.

Q. Then where did you go?—A. Then I have lived a while in Wilson County. I went over there, I believe, to Wilson County.

Q. You say you believe you went to Wilson County? You know where you went, do you not?—A. Yes, sir.

Q. Where did you go?—A. From Gonzales County I went to Wilson County.

Q. What is the place in Wilson County to which you went?—A. Stockdale.

Q. How long did you live there?—A. I stayed there somewhere about six or eight months, working on a ranch there, for Mr. Wehr.

Q. You were working on a ranch while you were there?—A. Yes, sir.

Q. Then where did you go?—A. I think I went from Stockdale to Travis County.

Q. How far is that from Stockdale?—A. I don't know just exactly; it is probably 80 miles.

Q. What did you do there?—A. I farmed there a couple of years.

Q. Then where did you go?—A. From Travis County? I said that I farmed there for a couple of years, and—

Q. What do you mean by saying that you farmed there? Did you rent a farm and farm it?—A. Yes, sir; I rented a farm there for two years, and made a crop.

Q. How old were you then?—A. Well, I think I was about 18 when I went there.

Q. And you remained there two years?—A. No, sir; I remained there longer than two years. I farmed there for two years, and then I worked for wages for a man there, a butcher, for, I believe, a year.

Q. That brought you down until you were 19. Where did you go then?—A. Where did I go then?

Q. No; you were 21 then. You were 18 when you went there?—A. Yes, sir.

Q. Where did you go from there?—A. From there I believe I went back to Wilson County.

Q. Back to Wilson County?—A. Yes, sir.

Q. Are you sure of that? [After a pause.] Can you not answer?—A. Yes, sir; if you will just give me time. [After a pause.] Yes, sir; I went back to Wilson County.

Q. You went back to Wilson County?—A. Yes, sir.

Q. How long did you remain there?—A. Not but for a short while.

Q. What were you doing there?—A. I went back there to Mr. Wehr's again.

Q. Mr. Wehr's?—A. Yes, sir.

Q. The man that you had been with before?—A. The man that I had been with previously.

Q. And were you employed with him?—A. Yes, sir; I was employed by him, there, for probably a couple of months.

Q. What were you doing?—A. We were working cattle on the range.

Q. Doing what?—A. On the range; working on the range.

Q. Then where did you go?—A. I went back to Travis County then.

Q. How long did you remain there then?—A. In Travis County?

Q. Yes.—A. I think I stayed there that time about a year or a year and a half.

Q. What were you doing?—A. When I went back there—I had been there some time with my step-father; he lived there at that time in Travis County—well, I went to work on the range, then, for Will G. Barber, a lawyer in San Marcos.

Q. How long did you work for him?—A. I worked for him probably six months, or something like that.

Q. Then where did you go?—A. I went to Kingsville.

Q. Kingsville?—A. Yes, sir.

Q. How far is that from Brownsville?—A. About 100 miles, I believe.

Q. What did you do there?—A. Well, my stepfather was running a hotel in Kingsville.

Q. You were living with your stepfather?—A. Yes, sir; in Kingsville; and I worked on the railroad for a little while there. I had very little employment in Kingsville.

Q. How long did you live there?—A. I think about two or three months; I am not sure.

Q. Then where did you go?—A. I went to Brownsville.

Q. That was how long ago now?—A. About two years.

Q. Did your father go there with you—your stepfather?—A. Sir?

Q. Did your stepfather go there with you, to Brownsville?—A. Yes, sir.

Q. He went there with you?—A. Yes, sir.

Q. Did he keep the Rio Grande Hotel?—A. Yes, sir; he kept the Rio Grande Hotel.

Q. Yes; was he keeping the Rio Grande Hotel in Brownsville?—A. Yes, sir.

Q. Is that what he went there for?—A. He went there to take possession of the Rio Grande Hotel.

Q. Did you have any employment at all in Brownsville down to the time of this firing?—A. At the time I was with him, you understand; I worked for him as clerk in the hotel when I had no other employment. Then when I went to Brownsville I went to work again on the railroad.

Q. In Brownsville?—A. Yes.

Q. What did you do on the railroad?—A. I was working at bridging.

Q. What, bridging and building?—A. Bridging and building; yes, sir.

Q. Was that work done there in Brownsville or out on the road somewhere?—A. It was done on the road at various places.

Q. Away from Brownsville?—A. Away from Brownsville; yes, sir.

Q. How much of your time was spent at Brownsville?—A. Well, while I was at work on the railroad there was very little of my time spent in Brownsville. I went in there once a month, or probably not so often.

Q. How much of this time did you work on the railroad?—A. I put in about three months, I think.

Q. Two months?—A. Three months, I think.

Q. Three months out of the two years?—A. Out of the two years? No. Yes, sir; you are right; about three months out of the two years I put in on the railroad.

Q. What did you do the rest of the time?—A. I went back to Austin.

Q. To Austin, Tex.?—A. Yes, sir.

Q. When did you go to Austin?—A. I had been with my stepfather down at Brownsville; I don't remember exactly how long, but I had been there with him several months, when I went back to Austin and stayed there a while.

Q. What were you doing in Austin?—A. I was running the engine to a gin—a cotton gin—at Manchaca.

Q. How long were you occupied at that?—A. All the fall; I don't remember just the months.

Q. Where did you go from Austin?—A. I went right directly back to Brownsville.

Q. And you arrived there when?—A. Sometime close to Christmas.

Q. About Christmas of 1905, that would be, would it not?—A. Christmas of 1905; yes, sir.

Q. You remained at Brownsville continuously from then until this shooting affray occurred?—A. Yes, sir.

Q. So that you were there some seven or eight months?—A. Something like that.

Q. This last time?—A. Yes, sir.

Q. How were you occupied during that time?—A. Well, you understand, it was after I went back to Brownsville this last time from Manchaca that I had this job on the railroad, and then I had no regular employment from then—from the time that I had done this work on the railroad—up to the 13th of August.

Q. You had no regular employment at all?—A. I had no regular employment at all.

Q. You were not working for anybody during all that time, were you?—A. I had no regular employment; no, sir. I had done several—

Q. You were not deputy sheriff?—A. No, sir; I was not deputy sheriff at all.

Q. When did you become deputy sheriff?—A. After the shooting. I don't remember how long, but it was probably a month.

Q. You were appointed a deputy sheriff after the shooting and before you testified?—A. Oh, yes, sir.

Q. When did you first testify?—A. At the Penrose court-martial.

Q. Did you not testify, or did you, before Mr. Purdy?—A. No, sir; the evening that Mr. Purdy called for me I was out with the deputy United States marshal hunting a Mexican, or a boatman, that he wanted to use as a witness.

Q. You never held any official position prior to this shooting affray?—A. No, sir.

Q. And you were simply stopping there in the Rio Grande Hotel with your stepfather, who was keeping it, the night that the shooting occurred?—A. I was staying there with him; yes, sir.

Q. And you heard some shots, and got awake, and got out and went downtown. About how many shots were fired, as nearly as you can tell us, before you left the hotel?—A. I could not tell you just exactly. I think there were two shots fired that woke me up, and then there were several more fired; but I never counted them.

Q. Did you hear the pistol shots, if they were pistol shots, that were fired first?—A. I heard one six-shooter shot.

Q. Where was that fired?—A. That was fired after I was in this alley between Elizabeth and Washington streets; it was fired somewhere over, it seemed, in front of Mr. Tate's house.

Q. In front of Mr. Tate's house?—A. I didn't say in front of Mr. Tate's house, but somewhere in that direction; maybe in the alley.

Q. Maybe in the alley?—A. Between Washington and Elizabeth streets.

Q. And the shots that you heard were all high-power shots?—A. With the exception of this one.

Q. With the exception of this one. You dressed hurriedly, and started from the hotel, on Jefferson street, was it?—A. Yes, sir.

Q. Between Eleventh and Twelfth, down Eleventh street?—A. Down Eleventh street; yes, sir.

Q. You went down to Adams street, that is one square, and then down to Washington street, that is two squares, and then down to the alley, that is a half a square more?—A. Yes, sir.

Q. That made three squares altogether that you ran?

Senator WARNER. Two squares and a half.

Senator FORAKER. Well, he had to go half a square to get from the hotel over to Eleventh street.

By Senator FORAKER:

Q. The hotel was half a square from Eleventh street?—A. I had to run about 30 steps. There is a store building between our hotel and Eleventh street.

Q. I understood you to say that your hotel was in the middle of that block.—A. I said somewhere in the middle of it; the courthouse was on one side and—

Q. At any rate, you went from the hotel out to Eleventh street and down Eleventh street to this alley?—A. I ran diagonally across Jefferson street until I got to the corner of Eleventh street; yes, sir.

Q. You went down to the alley, past Washington and Eleventh streets—whatever it may be—and then you turned into the alley, did you not?—A. Yes, sir.

Q. Did you hear the firing going on all the while?—A. Certainly.

Q. Where did it seem to be located?—A. It seemed to be down towards the post. I could not locate it in any particular spot.

Q. Did it—did it not seem to be coming nearer to you?—A. It seemed to be getting nearer. By the time that I had gotten down to the alley it seemed to be nearer—further up the street, you understand, further up Elizabeth street—than it did when I first heard it up at the hotel.

Q. About where did it seem to be when you got down to the alley?—A. I couldn't locate it in any one spot.

Q. Was it near the Miller Hotel?—A. Somewhere in that vicinity. I couldn't locate it positively as being at the Miller Hotel.

Q. You did not stop anywhere to listen until you got to the alley?—
A. Certainly I was not stopping to listen.

Q. What?—A. Certainly I was not stopping to listen until I got into the alley.

Q. I only wanted to find out when you stopped. You passed Eleventh street. Were you running all this time?—A. Yes, sir.

Q. All the time. Running pretty fast?—A. Just about as fast as I could.

Q. Did you have any arms?—A. I had a six-shooter.

Q. Where did you get that?—A. I got that six-shooter in my room when I left the hotel.

Q. What kind of a six-shooter was that?—A. A Colt .45.

Q. That pistol is in pretty common use there in Brownsville, is it not?—A. I believe it is. I believe that everyone that has six-shooters, that is the caliber.

Q. What kind of cartridges did you fire out of that six-shooter?—
A. We shoot generally Union metallic cartridges, .45 caliber.

Q. The Union metallic cartridge, with the high-power powder, do you not?—A. No, sir.

Q. Black powder?—A. Yes, sir.

Q. With black powder. That makes a loud, blunt report, as compared to the rifle, does it not?—A. Anyone that has ever heard a six-shooter, and has heard one of these high-power rifles, can very quickly distinguish the difference.

Q. The sound of the rifle is sharper and keener?—A. Yes, sir; it is a more sharp report than the six-shooter.

Q. You were in the alley. I would like to have your attention here. As I understand, you had come down, now, to the alley at Eleventh street [indicating on map]?—A. Yes, sir.

Q. Here is the Miller Hotel [indicating]. At the time you came to the alley at Eleventh street you heard firing somewhere in the neighborhood of the Miller Hotel?—A. Somewhere in that direction. I couldn't tell you exactly that it was at the Miller Hotel.

Q. It seemed to be that far down?—A. Yes, sir; it seemed to be that far away, or farther.

Q. Did you keep on running down Eleventh street?—A. No, sir; I did not keep on running.

Q. I mean down the alley?—A. Yes, sir.

Q. You kept on running toward Twelfth street?—A. Towards Twelfth street; yes, sir.

Q. What was the next thing that happened?—A. I had gotten about midway between Eleventh and Twelfth streets when I seen a shot about the center of the block, between Twelfth and Thirteenth streets.

Q. That would be right in there, in the rear of the Ruby Saloon [indicating]?—A. About the Ruby Saloon; yes, sir.

Q. And then what happened?—A. Well, then I stopped.

Q. Which way did that seem to be fired?—A. Well, it was fired from right to left; the person using the gun would throw it over this way, from right to left. I was running down here, and when I was right here this shot was fired from here [indicating on map].

Q. Nearly opposite the Tillman saloon, where you are pointing?—
A. I judged it to be about the Tillman saloon. This shot was fired from this direction, right here, across this way [indicating].

Q. It seemed to be fired right into the Tillman saloon?—A. Yes, sir.

Q. How many did you see?—A. I only seen one. I only seen the blaze of one shot. I heard several more.

Q. That was the first shot you saw?—A. That was the first shot that I saw.

Q. That was the first shot you heard fired in that locality, was it not?—A. There were several more together. I couldn't tell you whether that was the first one. It might have been the second or the third.

Q. When you turned into the alley the shots were down about the Miller Hotel, as near as you could locate them?—A. Yes, sir; somewhere down there; that is, the first shot I seen.

Q. I understand you did not see any shots, but you heard them, and from the sound you judged that they were about the hotel?—A. Yes, sir.

Q. As you ran down the alley you heard a shot fired as if from out in the alley, directly into the Tillman saloon?—A. Yes, sir.

Q. And I understand you there were other shots being fired at the same time?—A. There were other shots fired there, but I only seen the flash of one.

Q. What was the trouble that you could not see the flashes of the others?—A. I wasn't right there on the ground. I couldn't tell you.

Q. When you saw that one shot, you stopped and stood still?—A. Yes, sir.

Q. How long did you stand there?—A. I couldn't tell you just exactly; probably I stood there a half a minute.

Q. A half a minute?—A. Probably a little longer.

Q. What made you leave there?—A. Those people going the other way.

Q. Going which way?—A. Back to Thirteenth street.

Q. Back towards Thirteenth street?—A. Yes, sir.

Q. You stopped, perhaps, for half a minute, at the end of which time you say you saw them going back. Did you see any more firing at that point at all?—A. Where?

Q. At the Tillman saloon?—A. I told you that I seen the blaze of one shot over there.

Q. I understand that you saw that shot, but did you see any more firing after that one shot?—A. No, sir.

Q. You saw the blaze of one shot and heard three or four other shots?—A. Four or five other shots. I didn't count them.

Q. So there would be five or six shots you heard shot in that locality?—A. I judged it to be about that many.

Q. You were in the middle of that block between Eleventh and Twelfth streets, and they were in the middle of the block between Thirteenth and Twelfth streets?—A. Yes, sir.

Q. They were a full square away from you?—A. Very nearly a block; yes, sir.

Q. What is that?—A. Nearly a block.

Q. Entirely a block, was it not?—A. Nearly a block.

Q. You notice the Ruby Saloon there is not directly in the center of the block, but something approximating it. Were there any lamps in the alley between you and them?—A. I don't remember any lights.

Q. You don't remember any lights at all?—A. No, sir.

Q. Could you tell when you saw those men there by the Ruby Saloon who they were?—A. No, sir; I didn't know they were there until I saw the shots.

Q. I know, but could you not tell then who they were?—A. All I could see was the men.

Q. Could you not see their clothing?—A. The flash of the gun was so very quick that I didn't have time to—

Q. Was that so quick that you couldn't see the uniform? Did it not light up the alley so that you could tell?—A. It lighted up the alley about one-forty-second of a second.

Q. One-forty-second of a second?—A. Yes, sir; you know how long the flash of a gun would light up.

Q. Was the flash so quick as that?—A. I judge it was.

Q. Your eye could not follow the flash and get any benefit from the light?—A. I couldn't tell anything except that there were men there, you understand.

Q. That is what I want to find out. You were there and saw it, and we want to know what you saw.—A. Well, sir, I am trying to tell you.

Q. How many men did you see there?—A. I couldn't tell you. I just seen a bunch of men.

Q. Whereabouts in the alley did they seem to be standing?—A. I couldn't tell you. They were in the alley at the back of the saloon. I judged it to be at the back of the Ruby Saloon. I couldn't tell you.

Q. Were they somewhere about the middle of the alley?—A. Somewhere about the middle of the alley.

Q. Then they moved off back towards Thirteenth street?—A. No, sir; they came farther towards Twelfth street.

Q. How far did they come?—A. I think they got up as far as the back door of Weller's saloon.

Q. They came nearer to you?—A. Yes, sir; I couldn't tell that they were moving until I saw them come nearer—saw they were nearer to me—that is, within about 20 feet of Twelfth street.

Q. Did you stand your ground then?—A. I told you I didn't know they were coming until I saw them there about the back of Weller's saloon. They only reached there and then stopped, and turned back the other way.

Q. The back of Weller's saloon?—A. Yes, sir.

Q. Is Weller's saloon in here, next to Tillman's saloon?—A. I think there is a business house or two between them, and Weller's saloon is about there [indicating].

Q. It is on the corner?—A. No, sir; there is a house here.

Q. Does it run clear through to Elizabeth street?—A. Yes, sir.

Q. The Weller saloon does?—A. Yes, sir.

Q. You were standing there, looking right at that bunch of men?—A. Yes, sir.

Q. And although you were looking at them you did not see them approach you, but suddenly realized that they had approached you?—A. Yes, sir; in the dark of the alley I couldn't tell whether they were approaching me until I saw them at the back of Weller's saloon.

Q. Was it as dark as that?—A. Yes, sir; it was that dark in that alley.

Q. Very dark in that alley?—A. Yes, sir.

Q. There were houses on each side of it, there?—A. Yes, sir.

Q. Finally you saw them there; and then did you stand your ground?—A. I expect I was trying to hide up there. I was just about as close against the wall as a man could flatten himself.

Q. You got up against the wall; on which side?—A. Towards Elizabeth street.

Q. What kind of a wall is that?—A. I think there is a plank wall up there.

Q. How long did they stay up there?—A. They just stopped and then turned and went right back.

Q. Did they do any firing up there at that point?—A. No, sir.

Q. The only shot you saw was the one flash that you saw down at the saloon?—A. At the Tillman saloon—the Ruby Saloon.

Q. Then you saw them turn and go back down towards Thirteenth street?—A. Yes, sir.

Q. Did they run?—A. Yes, sir.

Q. When you saw them running did you run after them?—A. I followed after them. I didn't run fast enough to overtake them, you understand.

Q. You did not want to catch them?—A. No, sir; I wasn't wanting to catch them a bit. I just wanted to see where they went.

Q. You had no trouble to see them?—A. I was just trying to keep in sight of the bunch of men.

Q. There was no trouble about that?—A. Not a bit of trouble.

Q. They turned, then, down Thirteenth street?—A. They turned outside of my sight at Thirteenth. I don't know that they went up Thirteenth street.

Q. How far from them were you when they turned the corner of Thirteenth street?—A. I was probably somewhere between Weller's and the corner.

Q. Then you were three-quarters of the distance of a square away from them?—A. Yes, sir.

Q. Which way did they turn?—A. They turned in the direction of Washington street, going up Thirteenth street.

Q. You did not see anybody turn towards Elizabeth street at that corner?—A. No, sir.

Q. Then you came right down after them, did you?—A. No, sir.

Q. What did you do then?—A. When I had got here, about the distance of this place—here is the Ruby Saloon here—there was firing commenced over here [indicating].

Q. Oh, yes.—A. I stopped here again, you understand, to listen to that firing.

Q. To listen to that firing?—A. To listen to that; and when that quit, I stood there to see of they were through shooting, and then I ran to the corner, and that time I ran pretty fast.

Q. And you looked around the corner cautiously?—A. Yes, sir.

Q. What did you see?—A. I seen those men running across Washington and Thirteenth streets.

Q. Were they the men who had been doing that firing?—A. I could not tell you. No; I didn't see the ones that had done the firing.

Q. You didn't start to run from the Ruby Saloon down to the corner until the firing was all through?—A. Yes, sir.

Q. And a little while after?—A. Yes, sir; I waited to see if they were through.

Q. You waited to see if the firing had stopped?—A. Yes, sir.

Q. And then you looked up there, and you saw a squad of men?—A. Yes, sir.

Q. How many?—A. From five to seven.

Q. From five to seven men. Where did they come from?—A. I don't know, sir.

Q. And which way were they going?—A. They were going in the direction of Mr. Porter's corner, this place over here, numbered "10."

Q. That is Mr. Porter's corner, numbered "10," is it?—A. Yes, sir.

Q. They were going diagonally across the street?—A. Diagonally across the street from about where that star is.

Q. Across Thirteenth street towards Mr. Porter's?—A. No, sir; they were not.

Q. Which way were they going?—A. From about the direction of that star. You see that star?

Q. Yes.—A. They were running from about that place to Mr. Porter's corner, over there [indicating].

Q. That is the direction [indicating]?—A. Yes, sir.

Q. So that they were in Washington street?—A. Yes, sir; in Washington street.

Q. And in Thirteenth street, running diagonally across the two streets?—A. Yes, sir.

Q. They were running that way. This is Lon Hill corner, is it not, that I am pointing to, right under that red star [indicating]?—A. Yes, sir.

Q. You saw them running somewhere in the neighborhood of that corner, directly across this corner [indicating]?—A. I think I will have to show you.

Q. Very well.—A. They were running here, right across this way [indicating].

Q. Well, that is what I have been trying to say.—A. Yes, sir.

Q. Did they go across Washington street or into Washington street?—A. There are shade trees on the sidewalk here, and they ran right under here [indicating], and it is very dark under there, and I don't know which way they went, but my supposition was at that time, and that is still my belief, that they went down Washington street.

Q. So that if Mr. Porter was sitting here, at his front door, he ought to have seen them?—A. Certainly he ought to have seen them, I should think.

Q. Did you see anybody else excepting soldiers in that neighborhood?—A. In the neighborhood of Washington and Thirteenth streets?

Q. Yes.—A. No, sir.

Q. Nobody else?—A. No, sir.

Q. You did not see any blazes or flashes up there?—A. No, sir. You see there were several brick walls between me and them, then.

Q. They were going towards Mr. Porter's, and there were how many of them?—A. Between five and seven.

Q. That would be six of them, I suppose.—A. I didn't say six,

you know. There might have been five and there might have been seven of them.

Q. Well, all you remember is, you saw them going across there, and you could tell from down here at Thirteenth street, looking up that way, the color of their uniforms?—A. Certainly I could.

Q. You could see that distinctly?—A. Yes, sir. They were passing right by that street lamp there. That street lamp, where that little cross stands, is right on the sidewalk.

Q. Yes.—A. Thirteenth street is not but 30 feet wide.

Q. It is 40 feet, according to this plat.—A. Somewhere about that; 30 or 40 feet. Washington street, I should judge, although I never measured it, to be about 60 feet, and they were passing somewhere about 20 feet.

Q. Within 20 feet?—A. Of that light, yes, sir.

Q. Then they must have started from somewhere down in Thirteenth street?—A. I think not.

Q. You think they came out of Washington street?—A. No, sir. They didn't seem to me to be coming out of Washington street.

Q. Can you tell us how they were dressed?—A. Yes, sir.

Q. How?—A. Some of them had on coats and some did not. Some had a shirt on.

Q. How many had on the coats?—A. I didn't count them. There might have been three or four.

Q. What kind of a shirt was that?—A. I think it was the light blue, not the dark woolen shirt.

Q. You could tell the color of it?—A. I could tell the color of it, that it was a lighter blue.

Q. It was a lighter blue than the darker shirt?—A. Yes, sir.

Q. Did you notice their belts?—A. No, sir.

Q. You did not notice their belts?—A. No, sir.

Q. They had their guns?—A. Certainly they had guns.

Q. And how about their hats?—A. They had hats on.

Q. You did not see any without their hats?—A. I did not notice any of them without hats, bareheaded.

Q. Were any of them barelegged?—A. I couldn't tell whether any of them were barelegged or not.

Q. You could have seen whether any of them had leggings on or not if you had noticed?—A. If I had noticed particularly I might have noticed it.

Q. It was light enough for you to have noticed it?—A. I think so; and if I had looked at their legs I might have told whether they had leggings on or not.

Q. But you can not tell us the color of the faces of those men, except one of them?—A. No, sir; they were running, you know.

Q. Were they running, too?—A. You understand, they were not running fast. They were running all doubled over, with their guns in their hands; running stooped over [indicating].

Q. And running right over towards this porch?—A. Towards Mr. Porter's corner.

Q. They went under the shade trees at his corner?—A. They went under the shade trees at his corner.

Q. How was it that you could be able to recognize that one of them was a colored man?—A. He looked back.

Q. About where was he when he looked back?—A. He was a little beyond the light there.

Q. The red star [indicating on map]?—A. Oh, no, sir.

Q. The other spot, you mean. I am pointing now to where the black cross is on the map.—A. Yes, sir; right here [indicating].

Q. Whose corner is that?—A. I believe that fellow is named Bolack, and this man was right about here [indicating].

Q. You are pointing now to about the middle of Washington street?—A. Yes, sir; about the middle of Washington street. This man was right about here and, you understand, I was right here at this corner.

Q. And he looked back towards you?—A. He looked back in the direction that he had come.

Q. Did you hear any shots fired at that time?—A. There were some few shots fired after I seen them. I don't remember at the time they were crossing the street whether there were any shots fired or not, but there were some few fired afterwards. I don't know just how many there were.

Q. Then you went where?—A. I went around to Mr. Tate's house, you know. I told you that I made a mistake in his house and went to Mrs. Putegnats house, and I went beyond Mr. Tate's house, and when I found out my mistake I turned back and went into Mr. Tate's house.

Q. Did you think then that these men whom you saw, and one of whom you recognized as a negro, were the men who had done that firing?—A. That was my opinion; I thought they were.

Q. You thought that they had been up there firing and were now coming back?—A. I thought that they were going back to the post.

Q. You thought that they were going back to the post. You thought that they were colored soldiers?—A. I didn't think they were colored soldiers; I knew they were.

Q. You didn't think they were; you knew they were? You never had any doubts about it, did you?—A. No, sir; not after I seen them running across the light.

Q. Didn't you know it before that?—A. I had an idea it was, but I wasn't sure, you understand.

Q. Now, you testified before the court-martial at San Antonio at Fort Houston?—A. Yes, sir.

Q. I want to read you page 341 of the record of that court-martial, your testimony speaking on this point:

They were running diagonally across Washington and Thirteenth streets.

Q. Before you go any further, are you familiar with the position of that street light on the corner?—A. Yes, sir.

Q. It is correctly marked on that map?—A. No, sir; that street light is right there in that corner.

Q. That is, it ought to be over at the Bolack corner, as you indicated a moment ago?—A. Yes, sir; they had that light marked on Lon Hill's corner.

Q. I will read further:

Q. Will you continue, please?—A. When I got here, just as I came to the corner, I looked around here.

That was the corner of Thirteenth and the alley.

I ran around, and they were going right across here.

That is as you have just described.

They went right over towards this corner.

Q. Corner of what?—A. Corner of Washington and Thirteenth.

Q. And when they got farther?—A. They were out of my sight, and I come on up here and turned around and went right up here to Mr. Tate's house and got in the house where he lived; it is either one of the two of these houses—that one there, I believe.

Now all that is correct, is it?—A. Yes, sir.

Q. I will read further:

Q. That is next door to the house marked what number?—A. Next door to the house marked "6," next door to Mr. Starck's. That is about all I seen of them. I got in there and waited some little there; but when I went out I went out here and went up to the corner of Washington and Twelfth streets and there was a squad of soldiers coming there. I met a bunch of soldiers on the corner of Washington and Twelfth.

That is correct, is it?—A. Yes, sir.

Q. How many were there of that bunch?—A. Well, I judged it to be a company, about fifty, or something like that. I didn't count them.

Q. Do you not know that that was a company under the command of a commissioned officer?—A. I don't know anything about soldiers, or anything about their business. I judged it to be a company. There was a white man along with them, and I supposed it was their commander.

Q. This was about ten or fifteen minutes, as I understand it, after you went into Mr. Tate's house, that you went back onto the street and saw this company?—A. Yes, sir; I had started to go home then.

Q. You had started to go home?—A. Yes, sir.

Q. They did not disturb you, did they?—A. Yes, sir.

Q. What happened?—A. They hollered at me to halt, and when they did that, I think I stopped and asked them what they wanted. I think I said, "What do you want?" or something like that, and they threw their guns up at me and I jumped the fence into Mrs. Souder's yard, and then I climbed the partition between Mrs. Souder's and Mrs. Putegnat's, and then I climbed the partition between Mrs. Putegnat's and Mr. Tate's and got back into his house.

Q. You finally got out and got home, did you?—A. Yes, sir.

Q. You finally got out and got home, did you?—A. Yes, sir. I stayed in Mr. Tate's house at that time, I should judge it to be ten minutes, and then I went out and went back home. Mr. Tate showed me how to get out the back way into the alley between Washington and Adams streets.

Q. What was Mr. Tate doing when you got to his house?—A. The first time?

Q. Yes.—A. He was at the window. He had his Winchester, or rather his Marlin rifle. He uses a Marlin 30-30. He was at the window when I got there, and he opened the window. The sash was raised, but he opened the blinds and let me in through the window.

Q. Did he ask you who you were before he let you in?—A. Oh, no; he knew who I was.

Q. He recognized you as soon as you came there?—A. Yes, sir; he recognized my voice.

Q. Did he say anything about any soldiers having passed in front of his house?—A. I don't remember distinctly Mr. Tate's conversation. We were both excited to a certain extent, and I don't remember

the conversation. I don't remember Mr. Tate mentioning any soldiers passing in front of his house.

Q. Do you remember telling him about the soldiers running diagonally across the street?—A. No, sir; I couldn't tell you positively that I did.

Q. Did you hear any bugle call that night?—A. Yes, sir; I thought I heard two.

Q. When did you hear the first one of them?—A. When I heard one of them I was somewhere in the vicinity of Twelfth street. I don't remember whether I had just gotten into Twelfth street or whether I had just crossed on the alley between Twelfth and Thirteenth, but I heard a bugle, and then afterwards, running across Washington street, into Mr. Tate's house, I heard another.

Q. You heard another?—A. Yes, sir.

Q. The firing was all over then, was it not?—A. There might have been one or two shots fired about that time, but I am not positive.

Q. Judging from your experience in following these men and keeping in sight of them, do you think there would have been any difficulty in keeping in sight of this bunch of six or eight men?—A. How is that?

Q. Judging from your experience in following these men that night, do you think there would have been any difficulty in following these men and seeing what became of them, if some one had been disposed to do so?—A. Not if he had stayed far enough away from them; maybe he would not have had any difficulty.

Q. They were not going so rapidly but what an officer who was on duty might have kept in sight of them?—A. If he felt like it he might have kept in sight of them. Of course he couldn't tell just what minute they were going to turn around.

Q. Yes; but you kept in sight of them when you were following them?—A. Yes, sir; but I didn't follow them so very close, and I didn't keep in sight of them. You understand that I followed them but a short distance, you know.

Q. Except where this man passed right under the light, so that the light from the lamp shone right on him, you could not tell anything about how these men were dressed, could you?—A. I couldn't say positively how they were dressed until they passed under that light; no, sir.

Q. That is what I want. It was so dark that except when they passed under the light you could not tell anything about who it was?—A. No, sir.

Q. It was a dark night?—A. Yes, sir. It was starlight.

Q. It was starlight, but it was pretty dark, anyway, was it not?—A. It was not very bright anywhere, that I know of, except in the light.

By Senator FRAZIER:

Q. I believe you said it was a starlight night?—A. Yes, sir.

By Senator FORAKER:

Q. Whether it was one kind of a night or another, starlight or not you could not see well enough to describe the uniforms of those men until they passed so near that lamp that the light from the lamp fell upon them?—A. No, sir.

Q. You are sure that that bunch of men, when they were firing at

the Ruby Saloon, were in the alley there?—A. The shot that I seen fired was certainly fired in the alley; yes, sir.

Q. And the other men were standing there?—A. There were other men standing there.

Q. You could see that there were a bunch of them?—A. Yes, sir; I could see that there were a bunch of them.

Q. And then they moved up towards Twelfth street?—A. I didn't realize that they were moving, you understand, in the dark, until I could see that they were right at the back door of the Weller saloon. I couldn't tell whether they were moving. It was just that dark in that alley. There was just a lot of men there, I could see.

Q. But you couldn't see, until you finally realized that they had come closer to you, that they were moving?—A. No, sir.

Q. At that time they were how far away from you?—A. Something over half a block. It might have been a half a block or a little more.

Q. Were they as far away as 60 feet? When they were in the rear of Weller's saloon were they as far away from you as 60 feet? How far were they?—A. I was probably in the center of the block between Eleventh and Twelfth streets, and I should judge it to be 20 feet down in the alley between Twelfth and Thirteenth streets where they were. They were a little over half a block, or some such distance. I never measured that piece of ground.

Senator FORAKER. It is now very near the recess time, and I would like to look at this witness's testimony before the court-martial before going on any further with his examination.

By Senator BULKELEY:

Q. Where were you when you saw these soldiers pass between you and the light?—A. I was right up at the corner.

Q. Were you in the alley?—A. Yes, sir; in the alley, standing right at the corner of the alley between Washington and Elizabeth streets, looking out into Thirteenth street. These men were running.

Q. No matter where they were; where were you?—A. I was looking east on Thirteenth street.

Q. Looking around the corner?—A. Yes, sir.

Q. You had your head around the corner?—A. Yes, sir.

Senator BULKELEY. That is all.

At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The recess having expired, the committee at 2 p. m. resumed its session.

Present Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Foster, Overman, and Frazier.

TESTIMONY OF AMBROSE LITTLEFIELD—Continued.

AMBROSE LITTLEFIELD, a witness previously sworn, resumed the stand.

By Senator FORAKER:

Q. How many shots did you hear altogether that night?—A. Something over a hundred, I should judge.

Q. You heard the firing from the time that it commenced practically, down near the fort, somewhere, until it ceased up in the neighborhood of Mr. Starck's or Mr. Tate's house, did you?—A. I should think I heard every shot that was fired in town that night.

Q. You think you heard every shot? Where were you that night before you retired?—A. Well, I was there on Elizabeth street. I could not tell you. You know there was nothing unusual happened before 12 o'clock, and I was there on the street just the same as I would be every night.

Q. How were you putting in the time?—A. That night?

Q. Yes.—A. Well, I think—I am not sure, but I think—a fellow by the name of Campbell, a young fellow stopping at the hotel, and myself went to the post-office, and I believe I gave him the mail and the key to the box and he went back to the hotel, and then I put in the balance of the time there talking with friends and acquaintances in town on the street.

Q. Did you testify before the citizens' committee?—A. No, sir; I went up to see the citizens' committee, but I only stayed a few minutes.

Q. They did not call you at all?—A. If they called me, I was not there. I never had anything to say to them at all.

Q. Had you told anybody at that time about seeing these negro soldiers under the light up at Fourteenth street?—A. At what time?

Q. When the citizens' committee met?—A. Why, yes; I suppose I had. I am not positive that I had, and I don't remember telling anyone exactly that I had, but I rather expect that I had told some one.

Q. Is there anything in your testimony before the court-martial that you would like to change?—A. I don't know of anything, not right now.

By Senator FRAZIER:

Q. At the time you were in the alley between Eleventh and Twelfth streets you state, I believe, that you saw the flash of one shot?—

A. Yes, sir.

Q. Near the Ruby or Tillman saloon?—A. Yes, sir.

Q. Now, at or about that immediate time, did you hear other shots?—A. Yes, sir; they sounded like a volley fired there, but I only seen the flash of this one shot.

Q. You heard four or five other shots, or more?—A. About four or five or six; I could not say.

Q. But you certainly saw the flash of this one shot?—A. I only saw the flash of this one shot.

Q. Those other shots, might they have been inside of the door of the saloon, that prevented you from seeing the flash?—A. They could have been inside.

Q. At any rate, you heard four or five other shots, but did not see but one flash from one gun?—A. No, sir; that is all. The flash of those other shots was obstructed from my view for some reason.

Q. For some reason, either they were inside the saloon or something else, so that you only saw the flash of one gun?—A. There was something between the flash of the guns and myself. I only seen the flash of one shot.

By Senator FORAKER:

Q. But you saw a bunch of men, as you express it, in the alley?—A. I seen some men in the alley; yes, sir.

Q. That is, you saw more than the one man that fired?—A. Yes, sir.

Senator FORAKER. That is all.

TESTIMONY OF TEOFILO MARTINEZ.

TEOFILO MARTINEZ was called as a witness, and the oath was administered to him by the chairman.

The CHAIRMAN. Did you understand the oath?

The WITNESS. No, señor.

(Walter H. Fergusson was sworn as interpreter.)

The oath was again administered by the chairman and translated by the interpreter.

By Senator WARNER:

Q. Give your name in full.—A. Teofilo Martinez.

Q. What is your age?—A. Twenty-five years.

Q. What is your business? What do you work at?—A. Brick-laying.

Q. Were you born in Brownsville?—A. No, sir.

Q. Where?—A. In Matamoros, Mexico.

Q. Are you a citizen of the United States?—A. I am a Mexican citizen.

Q. How long have you lived at Brownsville?—A. Five years.

Q. Were you in Brownsville on the night of the 13th of last August, at the time of the shooting up of the town?—A. Yes, sir.

Q. Where were you that night?—A. In the house of Mr. Francesco Yturria.

Q. Where is that house located?—A. It is on Washington street, by the side of the barracks.

Q. It fronts on Washington street, then?—A. Yes, sir; it does.

Q. Look at this map. Do you recognize this as Washington street?—A. Yes, sir.

Q. And these buildings marked here represent the barracks?—A. Yes, sir.

Q. And this road or street here represents the garrison road, or Fifteenth street?—A. I don't know what street it represents, but it goes straight down.

Q. This building that is marked here with the figure "7" here on the map, is that the location of the house that you were in?—A. Yes, sir.

Q. Is there a fence between that building and the road that runs down back of the barracks?—A. The fence is alongside of the house of Mr. Pancho Yturria.

Q. That is the house that you were in?—A. Yes, sir.

Q. Now state what kind of a fence that is running along there.—

A. The part of the fence that faces the street is made of wooden pickets, and the fence that bounds the alley is made out of boards—not open pickets, but a tight board fence.

Q. Point out the part which is the board fence?—A. From here up is the wooden picket fence and from here down is the board fence.

The CHAIRMAN. Have him state that, so that it will be intelligible in the printed record.

Senator WARNER. I will get that in a moment. It is in evidence that those lots are 120 feet deep there.

A. Do you mean the fence?

Q. That entire fence along there is 120 feet long, but about how far back from the corner of Washington street, if you can tell, along that Garrison road there, did the picket fence come? How many feet, as nearly as you can tell?—A. I can't tell the number of feet.

Q. Take a pencil and mark where the board fence commenced, separating the picket fence.

(The witness marked a spot on the map with the pencil.)

Q. Is that house a two-story house?—A. One story, and it has a wooden top.

Q. And this part back here which is narrower, is that the dining room or kitchen?—A. The kitchen and dining room.

Q. What is the fence on the alley back of the house? Is that a board fence?—A. It is a wooden fence.

Q. Is it a close board fence or a picket fence?—A. It is a close board fence.

Q. In what part of the house were you sleeping on the night of August 13?—A. In the gallery.

Q. What do you mean by the gallery—were you on the veranda or porch?—A. Yes, sir; it is a sort of a corridor.

Q. And that porch is on the ground, is it?—A. It is on the brick foundation of the house.

By Senator LODGE:

Q. On a level with the room?—A. Yes, sir; on a level.

By Senator WARNER:

Q. State in your way just where you heard the shooting and what you heard.—A. I heard the shooting from the direction of the barracks. I was awakened by the shooting. I sat up on the cot. At once noticing that the shooting was not ceasing, I went down the stairs of this same porch, and I entered a brick room which is along-

side the alley, in the house, and I remained there until the morning of the next day.

Q. This shooting that you first heard, where did you locate that?—A. From the barracks.

Q. Did any of the bullets strike the building which you were in?—A. Yes, sir; four.

Q. How many bullets struck it?—A. Four.

Q. State when you noticed the places where those bullets had struck the house?—A. On the following day, when I examined the house.

Q. Tell us, as nearly as you can, just where those bullets struck the house.—A. Two of them struck the kitchen, and two of them struck the dining room.

Q. How high up from the ground, if you can tell, or from the gallery which you were sleeping on, were those shots?—A. Seven feet, more or less.

Q. That is, up on the building?—A. Up on the building. In the kitchen one entered the side of the roof.

Q. Did you notice in what direction those shots came, which way they slanted?—A. They came from the direction of the barracks.

Q. What part of the barracks?—A. From the barracks—from the second company, and from the first company's quarters by the side of the river.

Q. Point out, if you can, what you mean by the first and second company's barracks?—A. This (No. 35) is the second company.

Q. And which is the first that you refer to?—A. The one along-side of the river.

Q. Do you mean this one (B) or this one (D) for the second?—A. I do not understand the map.

The CHAIRMAN. Show him where the river is.

By Senator WARNER:

Q. This is the Rio Grande; this is Elizabeth street. Do you understand?—A. Elizabeth street; yes, sir.

Q. And this is the road running up between your house and the barracks. Do you understand that?—A. Yes, sir.

Q. And this letter "C," here, is the barracks of one company. Do you understand that?—A. Of one company.

Q. And this, "B," is the barracks of another company.—A. That makes two.

Q. Now, from which one of these barracks did you think the shooting came?

(The witness pointed to C barracks.)

Q. How high was that board fence between the kitchen and dining room and the barracks, or the street?—A. Seven feet high.

Q. Was there a windmill up in the lot there?—A. Yes, sir.

Q. I now show you No. 7 photograph of the Yturria house, "taken from garrison wall, rear of house," printed as an appendix to part 2 of Senate Document 155, and ask you if you recognize that board fence—if that represents generally the side towards the barracks?—A. Yes, sir.

Q. What does that represent, if you know?—A. The house of Mr. Francisco Yturria.

Q. After the first shooting from the barracks, in what direction did it go then, if you know?—A. Towards the center of the town.

Q. Why did you go into this brick room?—A. In order to get myself out of the range of danger.

Q. Do you know where those bullets struck after they came through the side of the house? Where did they strike inside?—A. In the kitchen. One of them lodged at the foot of a chicken house. The second one, which went through the kitchen door, lodged on the top of the well.

Q. Do you mean a cistern?—A. It is deeper than a cistern—a deep well.

Q. How far above the floor of the house was the place where the bullet struck the chicken house?—A. Right in the very foundation of the chicken house. The chicken house is a wooden room adjoining the kitchen.

Q. Then this bullet went clear through the kitchen, did it?—A. It went through the kitchen.

Q. It came into the kitchen how high above the floor?—A. A little above the middle of the door.

Q. And where did it go out of the kitchen?—A. At a point alongside of the chicken house.

Q. State where the others entered the building and went out—the ones that struck the dining room.—A. One entered the side of the roof and fell at the head of the dining-room table. It entered about the corner of the dining room and the kitchen, and struck the door in the dining room.

Q. And then where did that bullet go?—A. It remained there—lodged in the door.

Q. Were all those bullet holes on the side towards the barracks?—A. Yes, sir.

Q. And behind this solid board fence, 7 feet high?—A. Yes, sir.

Q. Did you hear those bullets when they struck the building?—A. Yes, sir.

Q. Where were you then?—A. Lying down in the gallery of the kitchen.

Q. Was that at the commencement of the shooting—at the first part of the shooting?—A. Yes, sir.

Q. And you did not go out of your house that night?—A. Out in the street?

Q. Yes.—A. No, sir.

Q. Who else was in that house, if anyone?—A. There was no one beside myself in the house of Mr. Francisco Yturria.

Q. You were taking care of the house for Mr. Francisco Yturria?—A. Yes, sir.

Q. And you first noticed the marks of those bullets, as you have indicated, the next morning?—A. Yes, sir; the next morning.

Q. Did parties come there the next day to see the marks of those bullets—come there to examine them?—A. Ygnacio Garza. He is the clerk—the cashier of the house.

Q. He came the next morning?—A. Yes, sir.

Senator WARNER. I think that is all I want to ask him.

Senator FORAKER. I do not believe that I want ask him anything.

By Senator FRAZIER:

Q. I would like to ask him one question. Was the point at which the bullets entered the house higher above the ground or lower than

the point at which they went out of the house and struck the cistern and chicken coop?—A. The point at which they entered is higher.

By Senator FORAKER:

Q. I will ask him a question now. Are there any trees between the rear part of the Yturria house and the end of C barracks?—A. This part here is covered with trees [indicating]. On this corner is one tree.

Q. Any trees inside of the wall?—A. The barracks wall? Yes; there is one.

Q. Where is that?—A. Right about here; a large tree [indicating].

Q. Can you see C barracks from the rear part of the Yturria house?—A. Could I see it that night?

Q. Yes; could you see it?—A. No, sir; on account of the trees.

Q. You saw nothing?—A. No, sir.

Q. And nobody?—A. No, sir.

Q. You just heard the sound of the firing?—A. Solely the shots that struck the house.

Q. As soon as the shooting commenced, you shut yourself up in the brick house?—A. At the first shots which awakened me I sat up on my cot. Then the shots began towards the center of the town and I went downstairs.

By Senator WARNER:

Q. You did not look out to see if there was anybody coming, did you? You did not look out at all?—A. No, sir.

(Witness excused.)

TESTIMONY OF ALBERT WALTER BILLINGSLEY.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. What is your name in full?—A. Albert Walter Billingsley.

Q. What is your age?—A. Forty-five years in July coming.

Q. What is your business?—A. I am in the dairy business now, in Brownsville.

Q. At what place?—A. Brownsville, Tex.

Q. That is, you supply Brownsville with milk, cream, and butter?—A. Yes, sir; the majority of the city. I have the largest business there.

Q. How long have you been engaged in the dairy business?—A. I began three years ago, but I have increased my business all along.

Q. Where is your dairy with reference to Brownsville?—A. It is now west of Brownsville, about a mile and a half.

Q. Where was it on the 13th of August last?—A. East of Brownsville. No; it was west of Brownsville, but my family lived east of Brownsville at that time. My dairy was west of Brownsville, in August, 3 miles west; but my family lived east of the city—on the edge of the city.

Q. How long have you lived at Brownsville and in that vicinity?—A. Five years and half.

Q. Where were you on the night of August 13 last year?—A. I was out at my dairy, 3 miles west of the city.

Q. Did you hear anything of this shooting?—A. Not until the next morning, the morning of the 14th.

Q. It was told to you?—A. My wife 'phoned to me from home about it.

Q. And your dairy is how far from the town?—A. Now it is a mile and a half. At that time it was about 3 miles.

Q. Were you in the city the next morning?—A. Yes, sir.

Q. Were you in the city on Monday—that is, the day of the shooting, during the day?—A. The 13th?

Q. Yes.—A. Yes, sir; I was there, as well as I can remember, from about 1.30 until 6 in the evening.

Q. Your business calls you there nearly every day?—A. It calls me there every day.

Q. Over town, in different parts of the city?—A. Yes, sir; in different places. But I was mostly up and down and around Elizabeth street, among the confectioners and the hotels and restaurants.

Q. Did you hear of the alleged assault upon Mrs. Evans that had been made?—A. Yes, sir.

Q. When did you learn that, Mr. Billingsley?—A. I heard it some time in the morning, I think it was the morning of the 13th that I heard it, and then when I came uptown I heard it often spoken of about on the streets that evening.

Q. Do you know where Mr. Crixell's saloon is?—A. Yes, sir.

Q. That is the one opposite the Ruby Saloon, on Elizabeth street?—A. Yes, sir; I know it very well.

Q. There are two Crixells, are there not?—A. Yes, sir; there are two Crixells, one down at the Market plaza, and the other on Elizabeth street.

Q. Were you in Mr. Crixell's place on the 13th of August?—A. Yes, sir; I went in there that evening.

Q. Did you have any conversation with Mr. Crixell?—A. I did; with Mr. Joe Crixell.

Q. Is he the proprietor of the saloon?—A. He was bartender that evening.

Q. Were there any officers in there then?—A. Yes, sir; Captain Lyon, Captain Macklin, and Lieutenant Lawrason were in there.

Q. Where were they and where were you with reference to the door?—A. Well, sir; I can indicate it to you by this table. They were, say, at the far end of the bar down there. This would be the far end of the saloon and the door fronting on Elizabeth street. They were at the far end, at the far end of a counter as long as this table. I stepped in, facing them, right at the door. I stepped in, and as I walked to the end of the counter—we very often shake dice down there for the drinks—and I said to Crixell, "I will shake the first dice out of the box for the drinks." Seeing these men in there was why I went in. I went in for a little information. Crixell came up to me and brought the dice box and threw the dice out on the counter, and I began talking to him, and I said, "Have you heard anything more about the Evans affair?" He says, "Nothing, particular." I says, "What do these officers say about it?" We were talking in a very low tone, not intending to be heard. He says, "Nothing." I says, "Have they done anything, or do they act like they are going to do anything in regard to this matter?" He says, "I don't think they will do anything," and I says, "Well, there ought

to be something done, some way." I says, "At the rate these fellows are carrying on here I don't think that the soldiers or the officers either ought to be allowed in town if they don't do something to help or assist us or to stop these men from conducting themselves the way they are acting in the city." Then I turned around and walked out. That is all I said to him.

Q. You felt pretty indignant about what you had heard?—A. Yes, sir; I did. Mr. Evans came to me and talked a great deal about the matter to me, himself, in person, and asked me what I thought he ought to do, and I says, "Go to the mayor of the city and to the officers about it. That is all I can say to do."

Q. On the morning of the 14th—some time on the 14th—you were in the city of Brownsville again, were you not?—A. Yes, sir.

Q. You met a good many parties, of course, I suppose?—A. Yes, sir; the town was full of people. There were a great many people around, walking the streets and talking.

Q. What was the general expression as to who had done the shooting up of the town?—A. I never heard a thing in the world, except that it was done by the soldiers. That is all I ever did hear.

Q. There was no question made about it?—A. No question whatever.

Q. Right in that connection, did you see Mayor Combe while he was in there?—A. Yes, sir.

Q. I suppose you gave expression to some of your feelings?—A. I talked a little bit about it, and Mayor Combe advised me to quit talking, and he gave me right smart of a reprimand. We were pretty good friends, and I reckon he felt that he had the authority to round me up pretty strong. He gave me a pretty strong rounding up; about talking too much, he said.

Q. Did you ever make, or hear made by anyone, by any of the citizens, any threats against the colored soldiers prior to the 13th of August?—A. No, sir; none whatever.

Q. Or on the 13th of August?—A. None whatever.

Senator WARNER. That is all, take the witness.

By Senator FORAKER:

Q. Now, are you a native of Brownsville?—A. I am a native of Texas; I am a native of Bee County, about 150 miles north of Brownsville.

Q. How long did you live there?—A. In Bee County?

Q. Yes.—A. I couldn't hardly say. I was a cowboy, and I would come in and out of the county to my home, and live maybe a year or so there, and then go to Montana or to Dakota, the northern cattle country, and then return.

Q. Where is Bee County?—A. About 150 miles north of Brownsville.

Q. Back in the interior?—A. Yes, sir.

Q. Is it on the river?—A. No, sir.

Q. You worked there as a ranchman?—A. Yes, sir. I lived in the adjoining county about ten years, San Patricio County, a little southwest.

Q. When did you go to Brownsville?—A. In the winter of 1902, I believe it was; along in January or February, along about there.

Q. You started a ranch there, near Brownsville?—A. No, sir; I first went there as a rice grower. I grew rice in Brownsville.

Q. Is that land around there suitable for rice growing?—A. When it is fresh in cultivation it is; but after two or three years it plays out; it is no good.

Q. It wears out for rice?—A. For rice purposes; yes, sir.

Q. Is it then good for anything else?—A. Yes, sir; it is fine corn and truck growing land.

Q. Is that the land that they are now discovering they can grow sugar cane on?—A. Yes, sir; the same land.

Q. The same land?—A. Yes, sir.

Q. You located a mile or two out of town?—A. I farmed in the country, but lived in the town. My family lived in town.

Q. About where in the town did you live?—A. On the edge of the city, on the east side of the city of Brownsville, in the suburbs, in the corporation.

Q. Was that about Monroe street?—A. Oh, no; clear out of the city entirely. There were no streets nor anything about me; entirely out on the vacant land.

Q. Clear out of the city entirely?—A. Yes, sir; but it was in the city limits.

Q. At the time of this shooting affray where was your dairy located?—A. Three miles west of Brownsville.

Q. Three miles west?—A. Yes, sir; north or northwest, more west than north.

Q. Suppose you were at the reservation and wanted to go to your place, indicate what direction you would go—by what streets you would travel. There is a map right by you. Indicate on that map.—A. I would travel in an easterly direction. Do you mean from the gate of the fort at the garrison?

Q. Yes; I am talking about the garrison gate. I want to get that location right. Suppose you were here at this gate. This is Elizabeth street going out; and here is the gate which enters the reservation; and here are the barracks. That red line is supposed to be the garrison wall; and this is the garrison road, or Fifteenth street, as they call it; and here is the guardhouse; and here is the parade ground; and here is the river; and away back here is the cavalry stable. How would you go to your home?—A. I hardly ever went down this street. I generally went down this street [indicating on map] and came in about here.

Q. About Adams and Fifteenth streets?—A. Sometimes a block farther down; and then I went in this direction to my home [indicating]. I most always went from here, about this point, along [indicating].

Q. Now, when you get out here some distance there is a country road that turns off to the right?—A. Yes, sir; and down the river.

Q. Did you have to travel over that road to get to your plantation?—A. Yes, sir; to my home where I lived; not to my plantation.

Q. I mean to your dairy.—A. Yes, sir.

Q. You lived at one place and your dairy was at another, was that it?—A. Yes, sir.

Q. And your dairy was up here [indicating]?—A. Three miles west of Brownsville.

Q. We are all mixed up a little about this. It was away over here [indicating]?—A. Yes, sir; coming up Elizabeth street, along in here, and then go out.

Q. Your dairy was really down the river?—A. No, sir; it was up the river. This is down the river [indicating].

Q. Here is the river, is it not [indicating]?—A. It meanders around.

Q. Does it come up here [indicating]?—A. There is an immense bend up here, and it comes within about 600 yards of the house where I live.

Q. To get to the country road did you have to turn to the right and go out?—A. Turn to the left; just off the road about 100 yards, through a gate.

Q. You did not travel on that country road at all?—A. Yes, sir: I traveled a part of it; about 400 or 500 yards of it.

Q. You went out this way until you came to the country road [indicating] and then turned in to the left?—A. Yes, sir; through a gate.

Q. Are you familiar with these buildings that belong to the reservation, the quartermaster's and commissary buildings?—A. I have seen them often. I hardly ever go in there.

Q. Where is your house?—A. In a northeasterly direction from that.

Q. How far away?—A. Something like half a mile, or three-quarters. Half a mile I suppose.

Q. And that is where you were living at the time of this shooting affray?—A. That is where my family was.

Q. About what time did you get back that night?—A. Which night?

Q. The night of the 13th of August.—A. I didn't get back at all. I went out to my dairy about 3 miles west of town. I left about 6 in the evening.

Q. And went out to your dairy?—A. Yes, sir.

Q. And you remained at the dairy all night?—A. Yes, sir; until about 8 o'clock the next morning.

Q. Were your family out at the dairy?—A. No, sir; my family was not at the dairy.

Q. Was that a usual occurrence for you to go out and remain at the dairy overnight?—A. Sometimes I would and sometimes I would go home. It was owing to my labor. Sometimes I had right unreliable labor, and I had to stay there. When I had a man that I could depend on I would stay at home.

Q. About how often did it happen that you remained at the dairy overnight?—A. Sometimes it happened that I remained at the dairy overnight for a week or ten days at a time.

Q. You were there that night?—A. Yes, sir; I was there that night.

Q. What time did you go out there that evening?—A. The evening of the 13th?

Q. Yes.—A. About 6 o'clock.

Q. And you did not even hear of the firing until the next day?—A. Not until my wife told me the next morning.

Q. Where did you see your wife the next morning?—A. I went on home. She telephoned me.

Q. She telephoned you what had happened from the residence?—
A. From the residence, from the family home; yes, sir.

Q. About how far is your house where she was overnight from the garrison gate?—A. Oh, it was a mile and a quarter, I guess; possibly a mile and a half.

Q. Do you know when she first heard of the firing?—A. She heard it, talking to people over the phone in town the next morning. We get a great many milk orders by phone.

Q. What time did you get in town the next morning?—A. I suppose 8 o'clock, possibly.

Q. Were people already assembling on the streets and showing excitement?—A. The people were around talking, but I didn't see anything in the way of armed men; but they were just around and talking and figuring on what was best to do.

Q. At what time was it that you got to talking in such a way that the mayor reprimanded you?—A. Possibly 1 or 2 o'clock in the afternoon, as I gained a little more information on the subject.

Q. What did you want to do that the mayor took exception to?—A. Well, I didn't really know what I wanted to do. I wanted to try in some way to get hold of the guilty parties.

Q. Did you want to try to get together some armed men and make an attack on the fort?—A. No, sir; that was foolishness. I did not want anything of that kind.

Q. You did not want to do that?—A. No, sir.

Q. What did you want to do?—A. I thought we ought to have the governor or the adjutant-general send some militia there to give us protection. I thought we were in a bad state of affairs; I thought we ought to prepare to defend ourselves in case of another attack.

Q. Did you not talk in a very bad way about the soldiers, and what you ought to do about it?—A. I don't know that I did.

Q. Swearing pretty loudly about it?—A. I might have made use of the words that the guilty parties ought to be hung, or something like that. I don't know what I said.

Q. At any rate, what you said was enough to attract the attention of the mayor, and to lead him to admonish you to stop talking that way?—A. Yes, sir.

Q. He said that he would send you to jail, did he not?—A. Possibly he did. If he did, I don't remember that. He may have looked back as he went off, and said that.

Q. About what time was it that you went to Crixell's saloon and saw these officers?—A. I don't know certainly, but it was between 1.30 and 3 or 4 o'clock.

Q. Did you see them go in there?—A. No, sir.

Q. You said you went in there for information.—A. I saw them standing in there, talking to Mr. Crixell, and I thought it was a good chance to find out something about the Evans affair.

Q. You went in simply to learn, as you inquired of Mr. Crixell, what they were going to do, or had done about the Evans matter?—
A. Yes, sir.

Q. Mr. Crixell answered that he did not think they were going to do anything?—A. That is what he said.

Q. That he had not heard them say?—A. That he had not heard them say whether they were going to do something about it, or not.

Q. And then you said that you did not think that either officers or men ought not to be allowed in town?—A. If they did not make some effort to catch the guilty parties.

Q. If they did not make some effort. Had you made inquiry of anybody else to find out whether they were making efforts to find out the guilty parties?—A. I don't know that I did, but I thought that was a good place to find out if they had done anything.

Q. Have you narrated everything that occurred there?—A. Yes, sir.

Q. That is all that you said?—A. Yes, sir; that is all that I said, and then I walked out.

Q. They did not say anything to you at all?—A. No, sir; they never spoke to me.

Q. They never spoke to you?—A. No, sir.

Q. Mr. Crixell did not speak to them at all?—A. He turned back to wait on them, and I walked out of the saloon.

Q. Do you know a young man by the name of Alonzo, "Kid" Alonzo?—A. "Kid" Alonzo?

Q. Yes.—A. I know several Alonzos there, but I do not know any man of that name.

Q. Do you know Harry Berger?—A. No, sir.

Q. Do you know Belger?—A. Harry Beldon?

Q. Beldon?—A. Yes, sir; Harry Beldon. I know him when I see him.

Q. Did you see him on the 13th?—A. No, sir.

Q. On the night of the 13th?—A. I don't remember it, if I did.

Q. Do you keep any guns at your residence, or at the dairy?—A. Not at the dairy. I have two or three old rusty guns at the house that I don't suppose have been fired in two or three years.

Q. Did you see John Natus that night?—A. Johnny Natus?

Q. Yes; a brother of the young man that was killed.—A. He is the uncle of the man who was killed.

Q. The uncle?—A. Yes, sir.

Q. You did not see him at all?—A. No, sir.

Q. You did not see any of these men that I have named to you?—A. No, sir.

By Senator WARNER:

Q. Just one question. This conversation you say you had with Mr. Crixell, and you turned and went out. Did you see Mr. Crixell again after that?—A. I saw him the next morning; yes, sir.

Q. Did he tell you then what remarks had been made by the officers after they went out?—A. Yes, sir; he told me that those officers overheard our conversation, and he said that Captain Macklin remarked as I went out that "the soldiers would fool that fellow yet."

By Senator FORAKER:

Q. That the soldiers would do what?—A. "Surprise that fellow." "Surprise that fellow," were the words.

Q. That is what Captain Macklin said?—A. Yes, sir; that is what Crixell said to me.

By Senator WARNER:

Q. Did you have any other talk about this matter?—A. With Mr. Crixell?

Q. Yes.—A. No, sir; not that I remember of.
Senator WARNER. That is all.

By Senator FORAKER:

Q. Just one word, now. Captain Macklin and Captain Lyon were in there?—A. Yes, sir. Captain Macklin and Captain Lyon and Lieutenant Lawrason.

Q. And Lieutenant Lawrason? They were all there together?—A. Yes, sir.

Q. Standing there together, as you saw them, and as you went out?—A. Yes, sir.

Q. Why should they make any remark about you? Had they seen you before?—A. I don't know, except as Mr. Crixell stated that they overheard our conversation.

Q. Had you ever seen them before?—A. Yes, sir; I knew them very well. I had sold them milk very often, and I knew them all well.

Q. You sold milk at the garrison?—A. Yes, sir; I delivered them milk every day.

Q. Then you were well enough acquainted to have spoken to them?—A. They were drinking there, and I did not feel like speaking to them. I thought that they might think that I wanted to come in and get a drink with them, and I did not speak to them.

Q. You avoided them?—A. I did not avoid them; I just stood at the other end of the counter.

Q. Did you say anything to them at any time about whether they were taking any steps to find the man who assaulted Mrs Evans?—A. I had not seen them to say anything about it. If I had seen them I would have mentioned it to Captain Lyon, because I like him very well.

Q. He was a very nice gentleman?—A. Yes, sir; so far as I had seen.

Q. Did you not find Lieutenant Lawrason the same way?—A. I had very little acquaintance with Lieutenant Lawrason.

Q. And Captain Macklin?—A. I never saw him but once or twice. Captain Lyon and Major Penrose came out to my dairy farm and hunted several times, and I had a better chance to know him.

Q. How long were they there before this affair occurred?—A. Possibly twenty-five or twenty-eight days.

Q. In the fort?—A. Yes, sir; in the fort.

Q. Major Penrose and Captain Lyon went out to your place, hunting; what did they shoot?—A. Birds.

Q. What were they?—A. Birds; doves. They kill doves at that time of the year.

Q. That was out at your dairy?—A. Yes, sir; at the dairy farm.

Q. Was there any reason why, if you wanted information as to what they were doing in reference to the arrest of the guilty party in the Evans case, you should not have made inquiry of them?—A. It only occurred the day before, and I never saw him to talk with him any more, excepting that evening in Crixwell's saloon, and I didn't feel disposed to rush in and ask them for any information there.

Q. You observed that the people generally, in conversation, were a good deal excited over the matter that afternoon, did you not?—A. Yes, sir; there was right smart excitement there.

Q. It was the talk of the town?—A. They were all talking; but I never heard any violent talk in any way.

Q. You did not hear anybody making threats of what they would do to the soldiers?—A. No, sir; none at all.

Q. And you never heard of any steps being taken by any of the citizens looking to getting rid of the soldiers?—A. No, sir.

Q. And you never heard any objection to the soldiers coming there?—A. Only by the Twenty-sixth Infantry. They were the only people that objected to those people coming there.

Q. They were opposed to their coming?—A. Yes, sir.

Q. Why were they opposed to their coming?—A. Simply because they wanted to remain there themselves.

Q. They liked the place and wanted to remain?—A. Yes, sir.

Q. Can you tell us of some of them who wanted to remain?—A. Yes, sir.

Q. Who were they?—A. Sergeant Case, Sergeant Rose, Corporal McCarty, Sergeant Huron—as he called himself—and a number of privates; I do not remember their names particularly.

Q. Do you remember Sergeant Levie?—A. I knew him when I saw him; I was not very well acquainted with him.

Q. You never heard him say that he wanted to stay there?—A. Yes, sir.

Q. And you did hear Huron say that he wanted to stay, and others?—A. Yes, sir.

Q. And they were opposed to the soldiers coming?—A. They did all the kicking; I never heard anybody kicking but them.

Q. Were they opposed to their coming, except for the reason that they had to leave?—A. That was all.

Q. They had no objection to the colored soldiers?—A. None at all, except that they wanted to remain there themselves.

Q. They liked the post, and they had been there two or three years, and they wanted to stay longer?—A. Yes, sir; I heard Lieutenant Rich say that it was the only town in the United States to soldier in. I heard him make that remark more than once.

Q. You heard him make that remark more than once?—A. Yes, sir; more than once. I heard him make that remark time and time again.

Q. Lieutenant Rich?—A. Yes, sir; Charles Rich.

Q. What company was he in?—A. Company L.

Q. You did not hear any of the policemen say anything about them coming?—A. No, sir; the merchants and the business men of Brownsville wanted the colored troops.

Q. They wanted them to come, did they?—A. Yes, sir; they said they spent their money among the restaurants and among the merchants and not in saloons, and they wanted them for that reason. The business men of the town wanted them. I heard them say that often.

Q. You yourself wanted them to come?—A. Certainly I wanted them to come, because I was told by people—men who had soldiered—that they were good milk customers; and of course I was looking to my own interests.

Q. You were figuring on the milk business in that connection?—A. Yes, sir; I wanted to sell as much milk as possible.

Q. Did not the Twenty-fifth Infantry use milk?—A. Yes, sir; they used it, but it was hard to get the pay out of it.

Q. Did the colored soldiers use any?—A. Yes, sir.

Q. How was it about the pay with them?—A. No trouble whatever. Captain Lyon paid me every day on delivery.

Q. You did not hear of any trouble with the colored soldiers until this Evans matter, did you?—A. No, sir; I heard a little talk of other trouble there, but it didn't interest me at all.

Q. You never saw any of these colored soldiers drunk and misbehaving, did you?—A. I can not say I never saw them drunk. I did not know whether they were drunk or not. I saw them at this saloon kept by this negro.

Q. Where was this?—A. Away down on the outskirts of the town.

Q. That was the saloon kept by Allison?—A. A negro; I never knew his name.

Q. How long did he keep that saloon there?—A. About ten or twelve days. I don't know, really.

Q. Do you know when they were paid off?—A. I don't know.

Q. Do you know whether he had that saloon before the day they were paid off?—A. I could not say; I never associated with the colored troops; I did with the white ones, but never with the colored ones.

Q. Is it not a fact that he opened this saloon on the Saturday before the firing, and the firing occurred on Monday?—A. He held that saloon several days after the shooting up of the town.

Q. Several days afterwards?—A. Yes, sir.

Q. Were the soldiers all kept in the reservation after this shooting?—A. They were kept inside, but I saw liquor going to them nearly every day from that saloon as I would be passing.

Q. Being sent to them?—A. Yes, sir.

Q. You did not see them going to the saloon?—A. No, sir.

Q. What you saw was beer?—A. Yes, sir; being carried to them.

Q. Do you know whether it was carried to the soldiers or to the officers?—A. No, sir; it was carried to the men on guard, on duty there.

Q. You did not see anybody drinking it?—A. No, sir; I never saw anybody drinking it; but I saw it passed through the fence by some of those Mexicans.

Q. Passed through the fence to the guards?—A. To the guards on duty; yes, sir.

Q. There was not anybody drunk at that time, was there?—A. No, sir.

(Witness excused.)

TESTIMONY OF JOSEPH L. CRIXELL.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. You are of French descent?—A. Yes, sir.

Q. Your name is French, is it not?—A. Yes, sir.

Q. What is your age?—A. Thirty-six on the 12th day of this month.

Q. Where is your home?—A. Brownsville, Tex.

Q. How long have you lived there?—A. Five years.

Q. What is your business there, Mr. Crixell?—A. The saloon business.

Q. Retail and wholesale, or retail alone?—A. Retail and wholesale. That is, wholesale in malt liquors and retail in whiskies.

Q. Wholesale in malt liquors?—A. Yes, sir; beer.

Q. I suppose you have the agency for some of the breweries?—A. Yes, sir; Milwaukee, Pabst, and the San Antonio Brewing Association.

Q. For what territory have you the agency?—A. We have only Cameron County.

Q. You remember what we call the "Tate occurrence" there?—A. I heard about it.

Q. You heard of that, when Mr. Tate was claimed to have struck a colored soldier and knocked him down on the sidewalk—without our going into the details of it?—A. Yes, sir.

Q. Did you know Captain Macklin?—A. Yes, sir.

Q. Where is your saloon?—A. On Elizabeth street, between Twelfth and Thirteenth.

Q. On the west side, was it, or on the east side?—A. On the west side.

Q. Just across from what is known as the Ruby Saloon, is it?—A. Yes, sir; just across the street.

Q. Kept by Mr. Tillman?—A. Yes, sir.

Q. There has been something stated in that connection, after the colored soldiers came there, about separate bars being put up in the saloons for them. Did you have a separate bar in your saloon?—A. No, sir; the rest of them did. There were two saloons that kept no separate bars for them at all, and those were Weller's saloon and our place.

Q. What is that?—A. There were only two places that did not put separate bars up for them, and those were our saloon and Weller's. Mr. Weller did not put up a separate bar, either.

Q. You had it understood that you were only serving the citizens there, did you, and not colored men?—A. When they got there, about half an hour after they got into the barracks, there was a crowd of soldiers came into the place, ten or twelve, and we explained that we had the officers' trade, and at the time there were some officers in the back of the saloon drinking, and that we would rather have the officers there than the soldiers, and that we were satisfied that they would rather go somewhere else and drink and not mix up with the officers; so that they took it in good nature and didn't stop there much more.

Q. But you had no separate bar?—A. No, sir.

Q. Now, returning to the Tate incident, you knew Captain Macklin?—A. Yes, sir.

Q. Did he patronize your place?—A. Yes, sir; from the first day he got into the town.

Q. Did you see him in your house after the Tate incident, when that matter was being spoken of?—A. Yes, sir.

Q. What did he say there, if anything, as to the result, the probable result, of such conduct by the citizens, as that of Mr. Tate, in striking the colored soldier and knocking him down with a pistol?—A. On the 13th, between 2 and 4 o'clock in the afternoon, Captain

Macklin and Captain Lyon and Lieutenant Lawrason came into the saloon, and they asked me to serve them three gin fizzes, and while I was mixing up the drinks he asked me, he says, "Joe, have you ever heard anything about a nigger being hit over the head with a six-shooter around here lately?" I said, "Yes; I heard a little about it." He said, "Have you heard the particulars about it?" I said the only thing I heard was that Mr. Tate, this customs officer, hit a nigger over the head with a six-shooter because this nigger would not give the sidewalk to some ladies.

Senator FORAKER. Speak a little louder.

A. (Continuing.) I told them that I had heard about the nigger being hit over the head with a six-shooter, and he asked me if I had heard any of the particulars, and I told him that I had heard that Mr. Tate had hit this nigger over the head with a six-shooter because the nigger had pushed his wife, or some other lady that was with him, off of the sidewalk, or something like it. Captain Macklin told me then, he says, "Yes; that is what they claim, but," he says, "Major Penrose and myself have investigated this thing thoroughly, and we have found out that these negro soldiers have been imposed on by the citizens and Federal officers of this town," he says, "and this thing has got to be stopped." He says, "Now, Joe, suppose these niggers would jump that barracks fence and shoot this damn town up any of these nights." He says, "We could not prevent it."

Q. Do you know Mr. Billingsley?—A. Yes, sir.

Q. Did you see him in your saloon that afternoon?—A. Yes, sir; just about that time. Just about the time that Captain Macklin made that remark Mr. Billingsley came into the front door and called me to the other end of the counter and asked me to shake for the drinks. He always was in there once or twice a day and wanted to shake dice for the drinks. I did. I left the officers at one end of the counter and went to the upper end of the counter, where Mr. Billingsley was, to shake with him; and when we got through shaking, and I was putting up his drink, he says, "Joe, have you heard anything about Mrs. Evans being assaulted by some negro soldier?" I said, "Yes, I heard something about it." He says, "Yes; that is bad." Then, of course, he was talking to me in a low voice; he says, "Have they found out anything about this fellow? Have they found out the guilty negro?" I says, "No; not by the way they talk." And then he says, a little louder than what he was talking to me before, he says, "Yes; it is a shame. We ought not to allow even these white officers to come in town. They are just as bad as the negroes;" and he walked out. Of course, after he walked out, I walked right back to where the officers were drinking, and Captain Macklin looked at me and smiled, and then he turned around and looked at Captain Lyon and said something low, that I couldn't hear, and he looked at me again, and he says, "Yes; these niggers will surprise this fellow yet," now referring to Mr. Billingsley, who had just walked out.

Q. Where were you on the night of the shooting?—A. I was in my saloon.

Q. Where was the first shooting that you heard?—A. I heard the first shooting towards the barracks; towards the post.

Q. Which way, what direction?—A. Well, in the same direction,

only coming closer every time; every minute closer down towards town.

Q. In the town, from the barracks?—A. Yes, sir.

Q. And your place is on Elizabeth street between Twelfth and Thirteenth, was it?—A. Yes, sir.

Q. On the west side of the street?—A. Yes, sir; on the west side of the street.

Q. And directly opposite what is known as the Ruby Saloon?—

A. Tillman's saloon, or the Ruby Saloon.

Q. That is kept by Mr. Tillman?—A. Yes, sir.

By Senator PETTUS:

Q. Did Tillman have two saloons?—A. No, sir; only one.

By Senator WARNER:

Q. Did you know a colored man by the name of Allison?—A. Yes, sir.

Q. Do you know where he started his saloon?—A. Yes, sir.

Q. Where was it, Mr. Crixell?—A. I am not sure; those streets are all to pieces in that part of the town. It is right at the upper part of the reservation. It is about three or four blocks from the gate of the post.

Q. Is it not more than three or four?—A. I don't think it is more than four; it may be. I am not acquainted with that part of the town. I have been there.

Q. One block would bring it to Washington and two blocks to Adams, and Jefferson street would be three blocks and Monroe would be four.—A. Yes, sir; four or five blocks up that way.

Q. Up along what is known as Garrison road?—A. Yes, sir.

Q. Do you know who it was that Mr. Allison bought his supplies from for his saloon?—A. He bought them from me and my brother.

Q. Do you remember when it was that he started his saloon?—A. Yes, sir.

Q. When was that?—A. He started his saloon on the 8th, I believe; from the 7th to the 8th. I got the license; that is, I paid the license for him myself. He got the license then.

Q. Pay day was on the 11th, Saturday?—A. He was getting ready to open; I know that.

Q. You got the license for him, did you?—A. Yes, sir; I got the license ahead of time, a few days before.

Q. You have two kinds of licenses in Brownsville, one for malt liquors, and one for liquor?—A. For him?

Q. No; for anybody.—A. He only got a license for beer, for malt liquor.

Q. And you supplied him with beer, did you?—A. Yes, sir; with the beer.

Q. Did he continue there any time after the night of the 13th?—A. Well, on the 14th he sent us a little note to say that some Mexican policeman had been there and given him warning to close up.

Q. Have you got that note?—A. I haven't got it with me. I believe it is at the house, but I haven't got it with me.

Q. State what it was?—A. He told us that some Mexican officer had given him orders to close his place of business up, and he thought that he had just as much right as anybody else to keep his business open, because he had paid his license, and he had his license to run,

and he wouldn't close up. So that my brother and myself took a hack, a carriage, and went up to see him, and as we got there, my brother asked him, he says, "What's the matter, Allison?" He says, "Well, a Mexican officer came up here and commanded me to close my place of business, and I will not close it, because I have paid my license." He was mad about it. I says, "But you ought to close up. We are all closed up. Mayor Combe gave us orders to close up to-day on account of the shooting, and he is afraid the people will drink liquor, and you had better close up." He finally decided to agree to close up the place. But he opened up the next day.

Q. How long after that did you supply him with beer?—A. That same day he sent for a case or two of whisky, and the next day he sent for beer, and on the third, I believe, he was arrested and put in jail, the third or fourth day.

Q. Did you have any talk with Allison about this shooting?—A. Yes, sir. That same day, on the 14th, when me and my brother went to see him, I asked him where he was the night before during the shooting, and he told me that he was just getting ready to lay down, and he showed me where he had a cot there, in a little room, when he heard the shooting. I said to him, "What did you do?" He says, "Nothing; I just laid down." He says, "I thought it was firecrackers."

Senator FORAKER. He thought it was what?

A. (Continuing.) He says, "I thought it was firecrackers." I says, "It surprises me, Allison, that it sounded to you like firecrackers, seeing that you have told me that you have been in the Army sixteen years, and I don't think that shots, especially the way they were shooting, would have sounded like firecrackers to an old soldier." He just laughed, you know, and he said that the house was closed up and he couldn't hear it well. He said, "I just knew it was shots." I says, "Yes; you know more than that; you know where those shots came from and what was going on." He says, "Well, I don't know. Every shot sounds alike to me. I am not much of an expert." I says, "Sixteen years in the Army, and you couldn't tell what it was!" He says, "Yes; but I didn't pay much attention to it anyhow." He says, "Well, they didn't shoot up your place, did they?" I says, "No." He says, "Mr. Crixell, they didn't shoot up your place, did they?" I says, "No;" and he says, "It is all right, then. From now on I would advise you to be on the watch."

Q. Now, your brother's place, what was the location of that?—A. My brother that was there with me that day is at the same place as I am. We are in partnership. There is another brother who is at another place.

Q. That is down at the Market plaza?—A. Yes, sir; but I am talking now about my brother that is in partnership with me in this place.

Q. The night of the shooting you were in your place, and you say you heard the shots?—A. Yes, sir.

Q. Just state in your own way what you heard of those shots, and saw.—A. Well, it was a very quiet night, that night of the 13th, not many people out in the saloons, and I had in my place of business in the back part a billiard room, and there was Mr. Martin Hanson, a contractor there, and Edward Daugherty, assistant postmaster there, and Leo Wise, a commission merchant there, and Mr. Shannon. I do not know Shannon's first name. There were these there and

myself, We were playing pitch, sitting back down there, playing for the drinks.

Q. Well, a good many have done that.—A. Yes, sir.

Q. And you were playing pitch there for the drinks?—A. Yes, sir.

Q. Go on.—A. I believe that it was about ten minutes to 12 that I heard four or five shots. I got up from the table, ready to throw my cards down on the table, and I says, "There is some shooting, boys," and Martin Hanson told me, he says, "Joe, go ahead and play your game; that is nothing but torpedoes."

SENATOR FORAKER. Torpedoes?

THE WITNESS. Torpedoes; yes, sir. I picked up my cards again and sat down, and just as I was about to play a card, here comes about ten or more shots, one after another, and then, of course, we all got up, and I says, "That is not torpedoes," I says, "That is United States rifles;" judging by the direction and the sound of the shots. So that we ran to the front door of the saloon, and, of course, by that time there was shooting all the time. So I told my porter, I says, "Joe, let's close the doors up quick." Right in front of my place, at Tillman's place, the Ruby, there was a bartender and four or five other parties standing right at the sidewalk, and I hollered at them, and I says, "Close up your doors, boys, here comes the niggers. Blow out your lights." While the rest of the fellows with me helped me out closing up the doors, I told them, "Put out the lights," and I went to the safe, and locked the safe, and went to the register and got the money out of the register and put it in my pocket. There was one light left at one end of the counter, and I ran to the drawer and pulled open the drawer, and I had two six-shooters there, and I gave one to Mr. Hanson and one I kept. By that time Louis Cowen came in the restaurant. A Chinaman has a restaurant in connection with the saloon in the next place to us, and Louis Cowen came and asked me for one of the six-shooters. He says, "I want to go home." He said that his wife and children were there, and he says, "I am afraid something will happen to them." I said, "You haven't any business out in the street now. If you go out you will get hurt. In the first place, I haven't any more six-shooters than the one I have now and the one that I gave Mr. Hanson." So I told my porter to put the lamplight out, and I called all of them to go with me upstairs, and I says, "Let's go upstairs; I believe we are safer up there." To go upstairs we had to go out in the yard and take the back stairs, and we went upstairs, and the shooting was growing nearer every minute, and was right close then. We could hear the shooting from the back alley of the Ruby Saloon, somewhere near the Tillman saloon, the Ruby.

Q. That is the Tillman saloon?—A. Yes, sir; the Ruby. When we were up there I heard the telephone downstairs ringing, and I thought it was my brother, who lives about eight or ten blocks from our place of business, so that I told the boys up there, "You just wait a minute, I am going downstairs; I believe my brother is trying to get me at the phone." I went to the phone and asked who it was, and Mr. Frank Kibbe answered me, the city attorney. He answered me, and asked me, he says, "Joe, what is all that shooting?" I said, "The niggers are shooting up the town." He says, "What seems to be the trouble?" I says, "I don't know." By that time the shooting was pretty close, and I just dropped the

receiver and ran back upstairs, and when I was going upstairs the crowd that I had up there, the crowd of four or five fellows, was just coming down again, so that we went in the saloon again, in the bar. And then the shooting was all over; it was a very few shots before it was all over. I heard a few voices outside on the sidewalk, and recognized Doctor Combe's voice, and I told the boys, I says, "Boys, this is Doctor Combe outside." I went to the door.

Q. That was the mayor of the city?—A. Yes, sir; the mayor. I went to the door and opened up the door for him, and I said, "Light a light." So they lighted a light, and Doctor Combe came in with his brother and a fellow by the name of Jose Garza, a drayman, there, and Policeman Calderon. Doctor Combe had a Winchester in his hand. He said, "Joe, put this up; I just took it away from this fellow," or something like that. As soon as I got the gun in my hands I recognized the Winchester, and I says, "This Winchester is from my brother's place." He gave it to me, and being then that we didn't know but what the same parties that had been doing the shooting were going to go to shooting again, I went to work it, thinking it would be better than a six-shooter to protect myself with, and found there was one old empty cartridge in it, and the shift would not work it out.

Q. What was that that would not work it out?—That is the cartridge extractor?—A. Well, I do not know much about a Winchester. You know, of course, after you fire a shot you have got to work the—

Senator FORAKER. The bolt?

The WITNESS. Yes, sir; to extract the empty shell.

By Senator WARNER:

Q. It would not extract the empty cartridge?—A. No, sir.

Q. You say it had one old cartridge in it?—A. Yes, sir; an old cartridge, an empty shell, and there was no more in it, either.

Q. Did you go across to the Ruby Saloon after that?—A. Yes, sir. When Doctor Combe gave me that gun he told me to close up and not to open up the saloon any more, and I says, "No; I am going to close up." I didn't feel like keeping open the saloon nohow any more. So I closed up and went across the street and found out the bartender was killed, and I found a fellow there, Preciado, a newspaper man, and he says, "Mr. Crixell, I am wounded." I says, "You are wounded?" He says, "Yes." Then he showed me that he had a little blood on the edge of his cuff, of his hand, and I started to see if it hurt him, to see where he was shot, and I asked him where he was shot, and he said, "I don't know." I pressed him all round [indicating] and it didn't hurt him, and I said, "Take your coat off," and he took his coat off, and I couldn't see blood, any more. Then he took me to a little place where he was sitting, where he got this shot, and I seen it next day. He showed me where he was standing and there was a few drops of blood. He says, "This comes from me and I am bound to be hurt somewhere." Finally, I thought there was nothing in it, and I thought that he was not hurt. Then I went to get the undertaker to fix up the body of the bartender. Mr. Tillman asked me to, and I had to do it. In the morning I found that Preciado had got hit in the hand, and through his coat and vest. I seen him next day, the next morning. That night I couldn't find the wound at all.

Q. Did you, the next day, see some of the places that were shot into?—A. Yes, sir. I seen the Miller Hotel, I seen the building where Mr. Jim Wells's lawyer's office is, and I seen the Cowen residence, and I heard about other places, but I never did go to see them.

Q. Your own place was not shot into at all, was it?—A. Well, next morning when I got up, I went to the saloon, and there was a shot in one of the posts on the sidewalk, but by the time that I went there there was a crowd there, and they claimed that it was a bullet in the post, but I never did pay much attention to it. There was a bullet hole in the post there. I don't know how long afterwards it was, but Lieutenant Leckie went there and got the bullet out, and they told me that him or somebody else worked at the hole and got some pieces of shell.

Q. That is, you mean of the jacket?—A. Yes, sir; of the jacket.

Q. The steel jacket?—A. The steel jacket.

Q. And of the lead bullet?—A. And of the lead bullet. But I didn't see anything of that.

Q. You were not present at that time?—A. No, sir; I wasn't present when it was taken out.

Q. You are pretty well acquainted in Brownsville?—A. Yes, sir.

Q. A good many people come into your place of business there?—A. Yes, sir.

Q. You may state to us if you ever heard any threats of violence made by any citizens of Brownsville against the colored soldiers.—

A. No, sir; I never did.

Q. Before the white soldiers left there, especially among the business part of the people; that is, among the restaurants and all that?—

A. Of course they said plain and out that they preferred the white soldiers to the colored soldiers, because they could not handle the niggers and the white soldiers together very well, and that they would rather have the white soldiers than the nigger soldiers; but not making remarks meaning—that is, not showing any prejudice against the negroes at all; only that they would rather have the white soldiers in preference to the nigger soldiers.

Q. You never heard any threats of any kind?—A. No, sir.

Q. On the night of this shooting, immediately following the shooting, in hearing persons speaking of the shooting, did you hear any other expression of opinion formed but what it was the colored soldiers who had done the shooting?—A. Oh, everybody generally claimed that the nigger soldiers had done it.

Q. Right at the time, that was the universal expression there that night?—A. Yes, sir; right at the time.

Q. Have you ever heard any different opinion expressed by anyone there in Brownsville?—A. No, sir.

Senator WARNER. That is all that I want to ask.

By Senator FORAKER:

Q. You did not see any of the soldiers there that night at all?—A. No, sir.

Q. You did not see any of the men who were firing?—A. No, sir.

Q. You only heard the firing?—A. I only heard, and of course noted the direction.

Q. I understand that. You heard the firing, and you said, "There are the nigger soldiers shooting up the town?"—A. Yes, sir.

Q. You did not even know where the firing was located at the time, did you?—A. Well, of course that is what I said at the time. Under oath I would not say that it was the nigger soldiers; but outside of that I could put my neck on it that it was the nigger soldiers.

Q. Yes; you had no doubt in your own mind, from the very first, that it was the negro soldiers?—A. Yes, sir; and I know it.

Q. What made you think it was the negro soldiers shooting up the town before you had seen anybody or heard from anybody?—A. Simply, in the first place, that if an officer claims that he can not prevent his men if he knows that something like that can happen, and goes and makes it public, it is very sure that something like that can be done.

Q. Yes. The remark that Captain Macklin made in your saloon on that afternoon, that they could not keep these soldiers from jumping over the wall and shooting up the town, came back to you?—A. Yes, sir.

Q. That came back to you when you heard this firing?—A. Not exactly that only.

Q. Well?—A. But the amount of the shots, and the sound of the shots, and the direction where the shots came from.

Q. Was there anything in the sound of the shots that was peculiar?—A. Yes, sir.

Q. You thought they were from high-power rifles, did you not?—A. Yes, sir.

Q. A Krag rifle is a high-power rifle, is it not?—A. Yes, sir; they are, but I don't think there are two of them in Brownsville.

Q. Only two of them?—A. I say I don't think there are more than two or three there.

Q. Two or three? Who has those Krag rifles there?—A. Well, what do you call the Krag?

Q. The Krag-Jørgensen rifles—the rifles that the soldiers had before they got the Springfields.—A. Oh, nobody that I know of.

Q. Nobody has any?—A. Nobody that I know.

Q. Do you know Mr. Blalock?—A. Yes, sir; very well.

Q. Does he not have a Krag rifle?—A. I don't know; not that I know of.

Q. You will not pretend to say that there are not half a dozen Krag rifles in Brownsville?—A. Not that I know of.

Q. I say that you will not pretend to say that there are not half a dozen there?—A. Yes, sir; not that I know of.

Q. You know the Winchester?—A. Yes, sir.

Q. That is a high-power rifle?—A. Any time, I can tell a bullet fired from a Winchester, and one fired from a high-power rifle.

Q. That is, you can distinguish between the report of a Winchester and a Springfield?—A. Yes, sir.

Q. Had you ever heard a Springfield fired before?—A. Lots of times, in target shooting.

Q. At target shooting?—A. Yes, sir.

Q. Where was the target shooting with the Springfield?—A. Right there at Brownsville, just a few miles from town and sometimes at the post, back in the post.

Q. Was that target shooting back in the post with Springfields?—A. Yes, sir; back of the quarters.

Q. I understand; back of the administration buildings?—A. Yes, sir.

Q. Over towards the dry lagoon?—A. Yes, sir.

Q. Well, did you hear any target practice over there with Springfield?—A. Yes, sir.

Q. There was practice there the year before with Krag, in 1905. Now, did you hear any target practice there in 1906?—A. Last year?

Q. Yes.—A. I heard it at Point Isabel, where they had target practice.

Q. At Point Isabel?—A. Yes, sir; that is, last year.

Q. And you can tell the difference, when you hear it, between the report of a Krag and a Springfield?—A. A Springfield or a Krag?

Q. What is the difference between the Springfield and the Winchester?—A. It has a sharper sound.

Q. The Springfield has the sharper sound?—A. Yes, sir.

Q. Now, you have heard a good many shots, evidently. Can you tell us what the first shots you heard that night sounded like?—A. It sounded like a Springfield, or a high-power shot.

Q. Mayor Combe has just testified to-day, or yesterday, that they were pistol shots. Does that affect your impression?—A. That is Mayor Combe's evidence, you know. I am giving mine.

Q. What is that?—A. That is Mayor Combe's evidence. I am giving my opinion.

Q. That is right. I want to know if his opinion would affect yours in any way?—A. No, sir.

Q. I want to know whether you are clear in your own mind about that?—A. Yes, sir.

Q. You are as clear about that as you are about the fact that it was the negro soldiers?—A. Yes, sir.

Q. You did not have to have anybody tell you that they were negro soldiers?—A. No, sir.

Q. That is, you knew it from the start?—A. Yes; from my estimation.

Q. Yes; I understand; that is your opinion.—A. Yes, sir.

Q. Now, you were in your saloon when this happened?—A. Yes, sir.

Q. And who were there with you?—A. Mr. Martin Hanson.

Q. Mr. Martin Hanson, what does he do?—A. He is a contractor there.

Q. Who was the other one?—A. Edward Daugherty, he is our assistant postmaster.

Q. Who else?—A. Mr. Leo Wise.

Q. How do you spell that name?—A. W-i-s-e.

Q. And then who else?—A. Mr. Shannon.

Q. What were you playing?—A. Pitch.

Q. Pitch?—A. Yes; seven-up.

Q. Was there any money on the game?—A. Money, yes; to pay for the drinks—just the same.

Q. How long had you been playing?—A. We sat there, I suppose, since 9 or 10 o'clock.

Q. From 9 or 10 o'clock to the time the shooting began?—A. Yes, sir.

Q. Was Mr. Louis Cowen there?—A. Louis Cowen came in there after the shooting started, from the restaurant door.

Q. Had you seen Mr. Louis Cowen that evening before he came in then?—A. No, sir.

Q. You had not seen him?—A. No, sir.

Q. He was not in your saloon at all?—A. I had seen him in the afternoon.

Q. When did you see him first, that night?—A. That night, I don't recollect.

Q. He had not been in your saloon that night at all, so far as you can recall?—A. So far as I can recollect; no, sir.

Q. Did you notice whether he was under the influence of liquor when he came in?—A. Well, I couldn't tell you, because when I seen him was exactly when the shooting was going on, and I was excited enough not to pay any attention.

Q. You did not have much time to pay attention to anybody?—A. No, sir.

Q. But you remember that he came in?—A. Yes, sir.

Q. And you remember that he wanted to get a six-shooter?—A. Yes; he wanted to go home.

Q. And did he tell you where he had been?—A. No, sir. He had a package of sandwiches from the restaurant, and he asked me for a half pint of whisky.

Q. He asked you for a half pint of whisky?—A. Yes, sir.

Q. Did you wait on him?—A. Yes, sir. I gave it to him.

Q. That was while the firing was going on?—A. Yes, sir. I just took it out and gave it to him.

Q. You did not stop to collect for it.—A. No, sir. Yes; I believe he did pay me.

Q. Did you give him any beer?—A. No, sir.

Q. He had a package of sandwiches, and he wanted a bottle of whisky and a six-shooter?—A. He had two bottles of beer that he had bought at Weller's saloon, being that he drinks Budweiser or Schlitz, that I don't keep. He told me the next day that he had two bottles of beer.

Q. Then did he leave your place when you gave him the whisky?—A. No, sir; he stayed right there until the shooting was all over. I wouldn't let him go.

Q. He did what?—A. I wouldn't let him out until the shooting was all over.

Q. You wouldn't let him out until the shooting was over?—A. No, sir.

Q. He was very anxious to go home while the shooting was in progress. Did that anxiety continue after the shooting was over?—A. How is that?

Q. Did he go home immediately after the shooting was over?—A. I don't know; I can't tell you. After the shooting was over there was a big crowd there in the street.

Q. After the shooting was over you opened your doors and let everybody out?—A. Yes, sir; and went out myself.

Q. Did he go upstairs with you?—A. Yes, sir.

Q. Do you know anything about Judge Parks coming around there later looking for Mr. Cowen; trying to find him?—A. No, sir; I saw Judge Parks a few minutes after the shooting was over, and he told me that Louis Cowen's house was all shot up to pieces.

Q. Did he tell you he was looking for Louis Cowen?—A. No, sir; he didn't say anything to me about looking for Louis Cowen.

Q. Did he not ask you if you knew where Louis Cowen could have been?—A. No, sir; but I told him. I said, "This shooting caught him right at my place, and I locked him up there."

Q. You mean that you locked him up there?—A. Yes, sir. I said, "The shooting caught him right at my place, and I kept him there."

Q. Right after the shooting; half or three-quarters of an hour after the shooting, this was, was it not?—A. It wasn't that much; maybe twenty minutes.

Q. Where were you, in your own saloon or across at the Ruby Saloon?—A. Across at the Ruby Saloon.

Q. You were across at the Ruby Saloon?—A. Yes, sir; I was across at the Ruby Saloon.

Q. There was a pretty good crowd around there?—A. Yes, sir.

Q. Did you see Louis Cowen in that crowd?—A. If I did, I didn't notice him.

Q. Now, this was the afternoon of the 13th, when Captain Macklin and Captain Lyon and Lieutenant Lawrason came together into your saloon, as I understand it?—A. Yes, sir.

Q. Later than 1 or 2 o'clock, but not later than 5?—A. Not later than 4.

Q. Not later than 4?—A. No, sir.

Q. And they came in and ordered some drinks?—A. Yes, sir.

Q. What did they order?—A. A gin fizz each.

Q. They each wanted a gin fizz?—A. Yes, sir.

Q. You sold it to them?—A. Yes, sir.

Q. And they drank it?—A. Yes, sir.

Q. And while they were there getting their gin fizzes, and while you were waiting on them, Mr. Billingsley came in?—A. Yes, sir.

Q. And he called you to one side?—A. No, sir; he just called me to the other end of the counter.

Q. To the other end of the counter?—A. Yes, sir.

Q. How far away from them?—A. Twenty-four feet.

Q. Twenty-four feet?—A. Yes, sir; but they were not exactly on one end. They were about one-third of the way—that is, taking two-thirds of the counter, they were separated from Mr. Billingsley.

Q. Did he call you to the other end of the counter?—A. Yes, sir.

Q. And when you got up there he asked you what these officers were doing, or going to do, about finding out who assaulted Mrs. Evans?—A. Well, he asked me if I had found out anything through them about if they had found out who was the guilty nigger.

Q. He wanted to know whether you had found out through them whether they had found out who was the guilty negro?—A. Yes, sir.

Q. Was that the first time you had seen Mr. Billingsley that day?—A. The first time I had seen him that day.

Q. Did he seem to be excited?—A. Not until I told him that there was nothing done yet, by the officers' talk.

Q. Had you had any talk at all with these officers at that time?—A. I just had talked to them.

Q. About the Evans matter?—A. About the Evans matter?

Q. Yes.—A. Well, in connection. When he asked me about this nigger being hit over the head, and all that, in connection with that.

Q. No; I am talking about the Evans matter.—Did you have any

talk with these officers about the Evans assault before Mr. Billingsley came in?—A. I do not think that we had touched that point—that is, to amount to anything.

Q. Did you talk about it at all?—A. I believe Captain Macklin did mention something about it.

Q. About the Evans matter?—A. Yes, sir.

Q. Do you not know, Mr. Crixell, when you came back to them—A. Yes, sir.

Q. (Continuing.) That they at that time did not know anything about the Evans matter; that it was not known in the fort until Mayor Combe went to the fort to see Major Penrose, about half past 5 in the evening?—A. It was in the paper that morning.

Q. Do you not know that Major Penrose did not know anything about it until that evening?—A. That they did not know anything?

Q. I ask you if you did not know at that time that these officers did not know anything about the Evans matter?—A. No; I know that they did know.

Q. You know that they did know?—A. Yes, sir.

Q. How do you know that they knew?—A. Simply because they were in the saloon before that, just after Captain Macklin got in from the hike.

Q. From where; the heights?—A. Yes; from out on the hike; that is, he went out of the town on a march.

Q. They went out on a practice march, you mean?—A. Yes, sir; and just as they got in they came in my saloon, and everybody was talking about this matter already.

Q. Early Monday morning?—A. Not early. He got in just about 12 o'clock.

Q. Twelve o'clock?—A. Yes, sir; I think that was the time he got in.

Q. Captain Macklin was officer of the day that day, was he not?—A. He went in as officer of the day afterwards.

Q. Was he wearing his sword and his revolver and his sash and belt that day?—A. I believe he had his sword on.

Q. When he was down in the saloon?—A. Yes, sir.

Q. Was that usual, for an officer of the day, to wear his sword and revolver and belt and sash?—A. I don't know anything about it.

Q. He came dressed that way down to your saloon?

Senator WARREN. I submit, Senator, that the witness has not said that he came into his saloon with his sword and sash on. He simply said that he had on a sword.

Senator FORAKER. I asked him if he had on his sword and sash, and I understood him to say that he had his sword on.

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. He was officer of the day. He wore his sword and he wore his sash, also?—A. That is something I don't know, whether they have to wear it or not.

Q. When he was in there with Lieutenant Lawrason and Captain Lyon, did he have on his sword and belt and sash and revolver?—A. I didn't pay any attention to it.

Q. You did not pay any attention to that?—A. He may have.

Q. You are sure this was in the afternoon of the 13th?—A. I am sure of it.

Q. After the Evans matter, and before the firing?—A. Yes, sir.

Q. Did you have any conversation with them when they were in there about the Evans matter?—A. Yes; just as I stated before; I am not sure if we talked about that matter or not, but I think we did.

Q. You have undertaken to give us the conversation you did have, and it related solely to the Tate matter?—A. How is that?

Q. You narrated the conversation you did have, in answer to Senator Warner's questions, and that conversation related only to the Tate matter?—A. Yes, sir; especially.

Q. You did not tell us, when you told Senator Warner about it, anything about the Evans matter?—A. I am not saying that yet, either.

Q. I understand from what you are saying now that you had some conversation—A. I say maybe I did. I am not sure of it.

Q. At any rate, when Mr. Billingsley asked you what you had found out, you told him that you did not think that they had done anything?—A. Yes, sir.

Q. Did you add that you did not think they were going to do anything?—A. No, sir. I said I did not think they had done anything.

Q. Mr. Billingsley immediately then made another remark to you and left the saloon?—A. That is all the remark he made.

Q. What was it?—A. He says this way. He says, "It is a shame;" he says, "We ought not even to allow the white officers in town; they are just as bad as the niggers."

Q. Did he say that in a pretty loud tone?—A. Not too loud, but loud enough for them to hear it.

Q. Loud enough for them to hear it?—A. And they heard it.

Q. He said it as if he wanted them to hear it?—A. I don't think he wanted them to hear. He did talk a little louder than the rest of the conversation.

Q. He showed a good deal of ill temper, didn't he—anger?—A. He had on time to show it, because he just said it and walked out.

Q. But a man can flash up in an instant?—A. Oh, yes; certainly.

Q. Didn't he flash up very angry, and speak that in a very angry tone?—A. Well, of course he was not smiling when he said it.

Q. He was not smiling when he said it? He was looking angry, wasn't he?—A. Yes—well, not that he looked mad, you know, but of course, just the same as anybody says something that way when he does not like the way things go.

Q. Was it not said as though he wanted the officers to hear it?—A. Well, I don't know.

Q. And as though he wanted the officers to take offense at it?—A. Well, that is something I could not tell, because, you see, it is hard to get to a man's way of thinking.

Q. Yes; I know it is, but there has been no trouble about your determining some other things that you have formed an opinion about.—A. Yes, sir.

Q. Did he use any profanity when he made that remark?—A. Well—

Q. Didn't he swear a great, big, ugly oath?—A. That is the only—

Q. And haven't you testified once before, to Mr. Purdy, that he did use an oath?—A. I testified before Mr. Purdy.

Q. You gave your affidavit to Mr. Purdy, didn't you?—A. Yes, sir.

Q. Not printed, but you gave it all the same?—A. Yes, sir; I know I gave it.

Q. And didn't you in that affidavit recount this same conversation?—A. I am pretty sure that it is the same that I am saying here. Of course it is a matter of eight or nine months ago. It may be one word, you know, that I may forget, but it is just on the same principle—the same thing.

Q. The reason I made the remark that that affidavit was not printed—it is no secret that this affidavit was taken, but the Secretary of War stated that he withheld this affidavit because it affected Captain Macklin, who was then under charges, and would be court-martialed and tried.—A. Yes, sir.

Senator FORAKER. I have seen the affidavit, or at least have been told about it, and in the morning I will be able to refresh the recollection of the witness.

The CHAIRMAN. I should think it would be better to bring the affidavit here rather than talk about what it contains.

Senator FORAKER. I am perfectly willing to bring it in, but it is not here.

Senator WARNER. And I have never seen it.

The CHAIRMAN. If we are going to assume what is in it, I think we ought to have it before the committee.

Senator FORAKER. I can ask the witness about it, but I will try and refresh his recollection. The affidavit, I suppose, is in the custody of the War Department. I do not know where it is, but there is nothing mysterious about it. I think the Secretary of War acted very properly in withholding it at the time, but there is no reason now why it should be withheld, and evidently you have proceeded on that view in putting the witness on the stand.

Senator WARNER. Certainly. I should not have done it before Captain Macklin's case was heard.

By Senator FORAKER:

Q. I will ask you about Allison. You sold Allison the beer with which he started up his saloon?—A. Yes, sir.

Q. How much of a bill of goods did you sell to him at first?—A. Well, I could not tell you. I will tell you the way he opened that. We paid his license. He put up part of the money to pay the license.

Q. How much was the license?—A. One hundred and twenty-five dollars, altogether, county, State, city, and internal revenue.

Q. You helped him start?—A. Yes, sir; me and my brother.

Q. He was about to be discharged from the Army?—A. He was discharged already.

Q. He was not discharged, the record shows, until the 11th.—

A. Well, that was the day he opened up, I believe.

Q. The 11th or 12th?—A. Yes, sir.

Q. He did not open his saloon until he was discharged, did he?—

A. I do not think so.

Q. He simply was making preliminary arrangements?—A. Yes, sir; for fixing up.

Q. He went to you and told you that he was going to be discharged, and he wanted to start up a saloon?—A. Yes, sir.

Q. And you said you would supply him with the goods?—A. Yes, sir.

Q. And that was just like making another customer for you?—A. Yes, sir.

Q. What was your interest in that saloon? How was he to pay you?—A. He was to pay up every week, every Monday.

Q. Did he pay you so much for the goods, or pay you so much on account of the business, out of the profits?—A. No, no; he just paid for the amount of goods that he got.

Q. Did you sell to him at wholesale rates?—A. Wholesale rates.

Q. You represented the Pabst Brewery?—A. Yes, sir.

Q. And some other brewery of San Antonio?—A. Yes, sir.

Q. And you were selling to him just like you would sell to any other saloon keeper?—A. Yes, sir.

Q. And you were trusting him until the end of the week to pay you?—A. Yes, sir; every Monday.

Q. Did he advance any of the money with which he started the saloon?—A. Yes, sir. We helped him out.

Q. You helped him out, but how much did he pay of that \$125?—A. Well, I don't remember; but he paid it up pretty nearly all himself.

Q. He paid it pretty nearly all up?—A. Yes, sir.

Q. He seemed to have some money ahead?—A. Yes, sir.

Q. He was paid off just then?—A. Yes, sir.

Q. And they did not want the soldiers to drink in the saloons downtown, so he thought he would start one up there?—A. Yes, sir.

Q. Were there any other saloons started up in that neighborhood?—A. Where he was?

Q. Anywhere along in the neighborhood of the barracks, about pay day?—A. Well, there was one beer saloon.

Q. Where was that located?—A. About three blocks from him.

Q. Down towards the gate?—A. No, sir.

Q. I mean down towards the fort?—A. Yes, sir.

Q. On the garrison road?—A. No; towards town.

Q. Do you know about that—whether there were any other saloons except his started up in that direction? Here is the fort, here are the barracks, and D Company and B Company and C Company, and this one was unoccupied [referring to the map].—A. Yes, sir.

Q. Were there any other saloons along here, elsewhere?—A. No, sir.

Q. Not a single one; none started there on pay day?—A. No, sir.

Q. Nor on Sunday; anywhere between the gate and here [indicating]?—A. Nowhere.

Q. Nor all the way up?—A. There was one on Fourteenth street.

Q. Where was it started?—A. It was at the corner of Fourteenth. It had been there before.

Q. About Fourteenth and Adams?—A. Up that way.

Q. Who started it?—A. Epolita Martinez.

Q. He was a saloon keeper?—A. Yes, sir.

Q. Had another saloon downtown?—A. Yes, sir.

Q. But in view of pay day he started one up in that locality, did he?—A. No; he had a saloon there.

Q. He already had it?—A. Yes, sir; and he has got it there yet.

Q. You know that no other saloon was started in that neighborhood?—A. I know that it was not.

Q. Did your brother join you?—A. Yes, sir—I mean no other saloon that we sold to. It may have been somebody else.

Q. That is what I am trying to find out. I ask you if other saloon keepers did start some saloons along there?—A. Well, that is something that I don't know.

Q. Now, isn't it a fact, Mr. Crixell, that three or four other saloons were started along here just as Allison was set up in business, just before pay day?—A. No; I am sure there was not.

Q. Not three or four, but two or three?—A. No; not even one—that is, not on that street.

Q. Not by you or by your brother; I do not mean that, but by other saloon keepers?—A. No saloon was started on that street by anybody that I know of.

Q. It might have been without your knowing of it?—A. Yes, sir; without my knowing of it.

Q. You and your brother were supplying these goods to Allison?—Yes, sir.

Q. First, about the license. Did you and your brother contribute equally towards paying for his license?—A. Well, I don't know. That is something I could not tell you unless I saw the books, to see how we stood.

Q. As a matter of fact, didn't he have the money to pay for his license himself?—A. As far as that is concerned, he had, I believe, \$500 or \$600 to go ahead and work with.

Q. He had plenty of money with which to start his saloon, didn't he?—A. Yes, sir.

Q. And he did not have to get a cent from you?—A. Not if he did not want to. We found this out afterwards, you know.

Q. I want to find out now, because I have had no chance until now. He went to you and told you that he wanted to start a saloon?—Yes, sir.

Q. And you went and got the license for him?—A. Yes, sir.

Q. He had to get security, didn't he, to get the license?—A. No security whatever, as long as we paid it.

Q. Somebody had to vouch for him?—A. No, sir; nobody.

Q. He could not have gotten a license without giving a bond?—A. He had to give a bond.

Q. He put up his own money?—A. Yes, sir.

Q. And you put up the bond?—A. He put up part of the money.

Q. Didn't he put up all of it?—A. No, sir.

Q. Why shouldn't he, if he had five or six hundred dollars?—A. Simply because there is lots of people works that way. If they lose, they don't want to lose it all themselves. They want to have somebody else besides them lose, you know.

Q. How much of it did you and your brother put up?—A. That is something I can't tell you, unless I would see the books. I can't remember.

Q. You can not tell until you see your books?—A. Until I see the books, but I can show it to you from the books.

Q. Are you positive you put up some of it?—A. Yes, sir.

Q. You did put up all the beer that he got?—A. Yes, sir.

Q. And you did go on his bond?—A. Yes, sir.

Q. And you did start him up there because pay day was coming on?—A. No; we started him up there like we have got about fifty saloons in the county the same way, and there is no niggers or nobody now, but we have got lots of them, that we have been trying to make something out of by selling the beer to them.

Q. Did you get the bonds for all the others all over the county?—A. We did not sign all the bonds ourselves, but we got our friends to do it.

Q. Got friends to do it?—A. Yes, sir.

Q. You stand behind them. You are the responsible parties?—A. Yes, sir; certainly.

Q. Where does your brother have his saloon?—A. At the Market Square.

Q. What is the name of his saloon?—A. The White Elephant Saloon.

Q. Is that a place that is very largely resorted to?—A. No; it is a small place.

Q. A small place. He has some gambling apparatus there, hasn't he?—A. Oh, there was gambling apparatus all around Brownsville them days.

Q. All around, anywhere?—A. Yes, sir.

Q. You have a gambling establishment in your saloon?—A. Not now.

Q. You did then?—A. I did not have it; I used to rent it.

Q. Who ran the gambling part of your business?—A. A fellow by the name of Reyes.

Q. Was he a Mexican?—A. Yes, sir.

Q. And where had he come to Brownsville from—Matamoras?—A. I don't know.

Q. You did have a gambling place up there? What kind of games were played there?—A. Well, they had roulette.

Q. And faro?—A. No; not faro.

Q. What else?—A. Roulette; and they had a poker room.

Q. A poker room?—A. And craps; that is all.

Q. Did you allow the negro soldier's to go up there and play craps?—A. No, sir.

Q. Who played craps?—A. The officers and civilians, and all kinds of white men, especially the officers.

Q. Who played roulette?—A. The same people.

Q. And who played poker?—A. Lawyers and doctors.

Q. And everybody?—A. Everybody.

Senator BULKELEY. And "beggarmen and thieves."

By Senator WARNER:

Q. Just as they do in any other place?—A. Yes, sir.

By Senator FORAKER:

Q. Were there a good many people coming in there to gamble?—A. No; not many.

Q. Weller's saloon was a little bit farther down?—A. Yes, sir.

Q. That fronted on Elizabeth street and ran back to the Cowen alley, didn't it?—A. Yes, sir.

Q. And that was a gambling place, too, as well as a saloon, was it not?—A. Yes, sir.

Q. And Tillman's was a gambling place as well as a saloon?—
A. Yes, sir.

Q. And they were all in competition with one another in selling drinks and in gambling, and in the gambling business?—A. Well, not exactly in competition. We were trying to see who could sell more whisky and who could do more business; yes, sir. That is what we did it for.

Q. Then you were trying to do as big a business as you could, and you were competing with one another?—A. Yes, sir.

Q. There were a good many other places there where the same sort of thing was going on?—A. Yes, sir.

Q. Now, was there any meeting in your saloon that night?—A. Any what?

Q. Any meeting upstairs in your saloon?—A. No; they had closed about 10 o'clock.

Q. Closed the gambling place?—A. Yes, sir; upstairs everything was closed up.

Q. Why was that closed at 10 o'clock that night?—A. Well, it was a quiet night.

Q. A very quiet night?—A. A very quiet night.

Q. The men who generally came to gamble did not come?—A. Did not come, and it was that way sometimes two or three weeks, without having anything going on upstairs.

Q. Then again didn't they stay there and drink and gamble until midnight and long after midnight many times?—A. Who?

Q. The people who frequented there. Didn't they frequently stay until long after midnight?—A. Well, yes; sometimes.

Q. Stayed all night sometimes, didn't they?—A. Sometimes stayed all night.

Senator FORAKER. I will suspend the hearing now, if it is agreeable, until morning.

At 4.35 o'clock p. m. the committee adjourned until Saturday, May 25, 1907, at 10.30 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Saturday, May 25, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Lodge (acting chairman), Foraker, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF JOSEPH L. CRIXELL—Continued.

JOSEPH L. CRIXELL, a witness previously sworn, resumed the stand.

By Senator FORAKER:

Q. What was it you said as to how the colored soldiers took the requirement that there should be separate bars?—A. Will you please, sir, ask me that question again?

Q. In what way did the colored soldiers seem to regard the requirement that there should be separate bars?—A. Well, some of

the saloon men there did establish separate bars for them. We did not.

Q. And you heard no complaint on that account at all, as I understood you to say?—A. No.

Q. They took it good-naturedly?—A. Yes.

Q. That is, you explained to them that you could not accommodate them there, and they said very well, and went elsewhere?—A. Yes, sir.

Q. They didn't annoy you?—A. No, sir.

Q. Did not insist upon it?—A. No, sir.

Q. Did not show anger about it?—A. No, sir.

Q. Showed no resentment, so far as you know?—A. No, sir.

Q. Did you see any misconduct of any kind on the part of the soldiers up to the time of the firing?—A. No, sir; not that I know of.

Q. Very orderly and well behaved, were they not, so far as you could observe?—A. Well, I could not say much as to that, because I did not see many of them out on the streets. I heard lots of kicking about it, but it was some other people kicking about the conduct of the soldiers.

Q. What is this you say?—A. I heard some other parties complaining about them, but I had no complaint.

Q. That was after the firing, was it not, when you heard of those complaints?—A. And before.

Q. Did you hear of any trouble except only this Tate affair?—A. Well, a few days before the shooting, before this affray, Mr. Billingsley came to my brother. He was disgusted, mad, and asked my brother who was the one who had put up that bar joint for the niggers. My brother told him, he said "They put it up themselves," and he said, "I sell the beer to them." "Well," he said, "I am going to make a complaint. Who is on the peace bond?" My brother said, "I am on their peace bond myself." He said, "I am going to make a kick, I am going to make a complaint. There is not a day that I come with my family from my house to town that I do not have to stop and go around them, for they blockade the street and don't pay any attention if the ladies are with me, my daughters, as to using bad language all the time, a crowd of them drunk."

Q. That trouble occurred after Allison started his saloon?—A. Yes, sir; the very day that he started the saloon.

Q. The day he started it?—A. Yes, sir.

Q. Do you know what day that was?—A. I believe it was about the 11th or 12th, I am not sure.

Q. The 11th or 12th?—A. I am not sure.

Q. The 12th was Sunday?—A. Yes, sir. Well, sir, it was Saturday, then.

Q. He started the saloon on Saturday?—A. I believe so, I am not sure. I could not tell you exactly the date.

Q. Your books will show exactly when you made the delivery to him?—A. Yes, sir.

Q. How much beer did you stock him up with for the start?—A. Well, only like every other beer saloon, they get just as much as they use, one cask or one keg at a time, or two kegs.

Q. The beer wagon goes around as they need it?—A. Goes around as they need it.

Q. They can order by telephone?—A. Yes, sir.

Q. And he had given an order and you had sent it there, and he had started up?—A. Yes, sir.

Q. But whether this was Saturday, the 11th, or Sunday, the 12th, you are not certain?—A. I am not certain.

Q. The shooting affray was on Monday, the 13th?—A. Monday, the 13th.

Q. Now, it was after he had started up, of course, before Billingsley came in to know who had started the nigger joint?—A. Yes, sir.

Q. What did your brother say to him?—A. My brother told him that he did not know anything about that; that he was going to see Allison, the fellow that ran the saloon, and talk to him about it, which my brother did. Of course, I don't know what he said to him, because I did not go with him.

Q. Allison seemed to you to be a rather decent, orderly kind of a man, didn't he?—A. Allison; yes.

Q. You would not have started a man in the saloon business who was not a decent, orderly looking sort of a man, would you?

Senator WARNER. I submit he has not said he started him in the saloon business. He furnished part of the money to pay the license.

Senator FORAKER. I submit that the record will show whether I am justified in using the word "started." (To the witness.) You did go on his bond, didn't you?

A. Yes, sir.

Q. He could not have started without a bond, could he?—A. As far as that is concerned I can go on the bond of any saloon man that we start in business.

Q. Of course you could, but as a matter of fact he had to get a bond, didn't he, and you signed it?—A. Yes, sir; I could sign it as well as anybody else.

Q. You and your brother went on the bond?—A. Me and my brother, and somebody else, of course.

Q. And he had somebody else, also?—A. Yes, sir.

Q. Are not you and your brother responsible men?—A. They are bound to have two.

Q. You and your brother would be two, wouldn't they?—A. No, sir; it is only one firm.

Q. Who was the other bondsman?—A. I don't remember, somebody else.

Q. Don't remember who went on with you?—A. No, sir.

Q. He had to have \$125 in money to pay for his license?—A. Yes, sir.

Q. And you insist that you paid a part of that?—A. We advanced him a part of it.

Q. But you could not even yet tell how much?—A. No; because I have not looked at the books.

Q. But you advanced all that it was necessary to advance to make up the amount, didn't you?—A. Yes, sir.

Q. And then you furnished him the beer?—A. Yes, sir; he bought the beer from us.

Q. Well, I know he bought it from you, and you sold it to him on credit, didn't you?—A. Yes, sir; like we do to any other saloon.

Q. That is what I mean by saying that you started him in business, and I submit that I am justified in using that word. Now, it was

after he started in business in that way that Billingsley came to make complaint to your brother?—A. Yes, sir.

Q. Did he come to you to make the complaint?—A. No; to my brother.

Q. Just what was it he said to your brother?—A. He said that he was going to make some kind of a complaint or kick against that nigger saloon, because, he said, "Every time I come with my wife and daughters from my house they blockade the street—a crowd of nigger soldiers—drinking and using bad language," and he said, "They will not move to let me get through with my buggy, and I had to stop there, and my wife was afraid I would get into trouble with them."

Q. When was it he made that complaint to your brother?—A. Well, just as I stated before, and I remember it was the very first day he opened up there.

Q. It was the very first day that he opened that Mr. Billingsley made that complaint, did he?—A. Yes, sir.

Q. It was either Saturday or Sunday, then?—A. Yes, sir.

Q. It could not have been later than Monday?—A. No, sir.

Q. Did you yourself see Mr. Billingsley on Sunday?—A. No; I did not see Mr. Billingsley until the day of the 13th.

Q. Is your brother here to testify?—A. No, sir; my brother is in Brownsville.

Q. Now, your brother said he would talk with Allison. Did he talk with him about that?—A. Yes, sir; I believe he did.

Q. When did he talk with him about that?—A. I believe the same day; that very same day he went to him.

Q. With what result?—A. I don't know.

Q. Now, Mr. Billingsley seemed to be talking a good deal about these soldiers, didn't he?—A. Well, I did not hear him myself only that day that he made them remarks in the saloon, after Mrs. Evans—

Q. That was on Monday?—A. On Monday and the day after the shooting.

Q. And the day after the shooting?—A. Yes, sir. I did not hear them myself, but I heard that Doctor Combe had stopped him from making some remarks.

Q. So that he was making complaint as early as Saturday or Sunday, and then he was in your saloon when the officers were there on Monday?—A. Yes, sir.

Q. To say what has been narrated?—A. Yes, sir.

Q. And on Tuesday he was so specially outspoken in what he had to say that the mayor felt he ought to reprimand him and reprove him?—A. Yes, sir.

Q. Do you know where Mr. Billingsley was on the night of the 13th?—A. I don't know. I believe he was at his ranch—that is, at his home.

Q. That is, you heard he was there?—A. Yes, sir.

Q. You did not see him there?—A. No; I did not see him.

Q. Now, about Allison, before we get away from him. You said that on the 14th Allison made a complaint that they wanted to close him up?—A. Yes, sir.

Q. And he thought, having paid the license, he ought to be allowed to continue?—A. Yes, sir.

Q. Who was patronizing him on the 14th?—A. I don't know.

Q. Is it not true that on the 14th all the soldiers were shut up in the reservation?—A. They were all in the reservation when me and my brother went there. There was nobody there but him and a Mexican.

Q. He was not doing any business at all on the 14th when you went there?—A. No.

Q. When you went there?—A. When we went there he was there by himself. There was a Mexican fellow there taking a glass of beer.

Q. And he was not doing any business on the 15th, so far as the soldiers were concerned?—A. Well, I don't know. He certainly—I believe it was on the 14th or 15th, I can show it by my books—he sent for a case of whisky, a whole case of whisky that day.

Q. He sent for a case of whisky?—A. Yes, sir.

Q. And you furnished it to him?—A. Yes, sir. He paid for it. He sent the money for it.

Q. He sent the money and you were willing to sell it to him?—A. Yes, sir.

Q. And did sell it to him?—A. Yes, sir.

Q. And sent it up to him?—A. Yes, sir.

Q. And that was on the 14th or 15th?—A. Yes, sir; about the 15th.

Q. That was a time of a great deal of excitement, was it not?—

A. Well, at that time, of course the people was excited on account of the shooting.

By Senator OVERMAN:

Q. Did you send him any beer after the shooting?—A. I believe he did send for some beer; I am not sure.

By Senator FORAKER:

Q. Can you send us a statement from your books, showing how much he bought?—A. Yes, sir.

Q. And also about the license money?—A. Yes, sir.

Q. Send that to us, so we can put it in the record here.—A. I believe he used two or three cases of whisky between the 14th and 16th, whisky that he was sending in to the soldiers some how or other.

Senator WARNER. You will send that statement to the chairman of the Committee on Military Affairs.

Senator FORAKER. Yes.

The WITNESS. Yes, sir.

Q. So that it can be put in the record as a part of your testimony.—A. Yes, sir.

By Senator FORAKER:

Q. How do you know what he was doing with the whisky?—A. Because some party that he sent for one of the cases of whisky—I don't remember his name, he is a hack driver—I asked him "What is Allison using this whisky for? He is not drinking all this whisky, and he has not got any license to sell whisky." He said, "Oh, he is sending this whisky into the quarters for the soldiers."

Q. So you sent it to him when he ordered it, although you knew he had no license to sell it?—A. Certainly. I will sell to you or anybody else. I don't care whether he sells it or not. That is not my business.

Q. He sent the order and he sent the money to pay it?—A. Yes sir—oh, no; I believe it was charged on the books. I can show you

Q. Well, that was under your arrangement, then, that he should pay you at the end of the week?—A. Yes, sir.

Q. Or whenever you had settlement days?—A. Yes, sir.

By Senator OVERMAN:

Q. Suppose you include in your statement that you send to us all the beer you sold him, and all the whisky from the 6th up. Have you an account of the beer and the whisky that you sold him from the 6th or 7th?—A. Yes, sir; I have got the whole amount.

By Senator FORAKER:

Q. You did not sell him anything on the 6th or 7th, did you, not until he started?—A. No; not until he started.

By Senator OVERMAN:

Q. When did he start?—A. Between the 10th and the 12th.

Q. When you send it, send the whole amount.—A. Yes, sir.

By Senator FORAKER:

Q. How long did Allison continue to run that saloon?—A. I believe it was three or four days.

Q. And then what happened to him?—A. Well, he closed up. He was going to leave town. He came to me and told me that he was going to leave, that he had found out he could not do anything with that place; told me, moreover, that he had some money in the bank, that he wanted to pay me what he owed me. He went to the bank and got the money and came back to the saloon and paid me what he owed me, in the house.

Q. Paid everything off?—A. Yes, sir; with the exception that he had a few little things that he had bought himself, in the saloon.

Q. A few what?—A. A few things that he had bought out of his own pocket. To every man that opens a saloon we furnish an ice chest, a counter, and a back bar, or something like that.

Q. You furnished the ice chest, the counter, and the bar?—A. Yes, sir; for every one of them.

Q. I am only talking about this one. Did you furnish any mirrors?—A. Yes, sir; I believe so. Then he had a few things himself, that he had bought, and he said, "I am going to leave these things here to you. I have no use for them." And my brother just took them.

Q. You had a full and final settlement?—A. Yes, sir.

Q. He acted entirely honorably with you in that respect?—A. Yes, sir.

Q. You had no fault to find with him?—A. No, sir.

Q. About what day did that happen?—A. I could not tell you.

Q. About the 16th?—A. I should say three or four days after the shooting.

Q. Then did he close up the saloon?—A. Yes, sir; he closed up the saloon and he was to leave.

Q. And you took charge of it, did you, to take your things out?—A. We put another man there to run it, to see what he could do with it.

Q. Whom did you put in?—A. A white fellow by the name of Carter, I believe his name was.

Q. You simply took possession from Allison?—A. Yes, sir.

Q. Will your books show what day that was?—A. Yes, sir.

Q. Then what did Allison do after he did that?—A. Well, I understand that he was going to leave town, but he was arrested. I heard a day or two afterwards that he was in jail.

Q. He was arrested right away, was he not?—A. Yes, sir.

Q. Charged with this shooting?—A. No, sir; charged with an assault to murder.

Q. In the first place, he was arrested, was he not, along with twelve of the soldiers, charged with being guilty of shooting up the town of Brownsville?—A. Well, I don't know about that.

Q. You do not know about that?—A. No, sir.

Q. What you know about is that he was arrested upon the charge of attempted murder?—A. Yes, sir.

Q. Who is the man he attempted to murder?—A. They told me that it was another colored fellow, a negro, a railroad man. He was a brakeman, I believe, on the railroad.

Q. Do you know anything about the circumstances?—A. Not a thing.

Q. Do you know whether the colored man filed any charge against him?—A. No, sir.

Q. Do you know whether he has ever been brought to trial?—A. No, sir.

Q. He has been kept in jail ever since, hasn't he?—A. Yes, sir. I seen him afterwards. I went to the jail with a newspaper reporter from New York, about two or three months ago, and he told me that somebody preferred charges against him, but they never had tried him, that the term of court had passed, and that he expected to get out of it this next term of court, that the grand jury would turn him loose. That is what he told me.

Q. It was before he was arrested that you and your brother had the talk with him, in which he said, "Well, your saloon was not shot up, was it?"—A. Yes, sir; that was the 14th.

Q. And to your brother, "Your saloon was not shot up?"—A. Yes, sir.

Q. "But from this time on you had better be on your guard?"—A. Yes, sir.

Q. What do you want us to understand from what you represent him as saying, that he knew who did the shooting? Did you get that idea?—A. Oh, well, as far as that is concerned, I had an idea that he knew it, and I have got that idea yet.

Q. You had an idea that he knew it?—A. Yes, sir.

Q. When did you get that idea?—A. I always had it; as soon as the affray was committed.

Q. I want you to repeat that.—A. I always had the idea that he knew who done the shooting.

Q. You had that idea?—A. Yes, sir.

Q. You told Captain McDonnel that, didn't you?—A. I never spoke two words to Captain McDonnel in my life.

Q. To whom did you tell that idea?—A. I said it to different parties, I don't remember whom.

Q. Why did you think he knew who had done the shooting?—A. Well, because I just formed the idea that he did, and after I talked to him I was sure of it.

Q. Because of the conversation which you have narrated to us?—A. Yes, sir.

Q. Because of the conversation, the way he talked to you and to your brother?—A. Yes, sir.

Q. Did you go before the grand jury before he was indicted and tell them of this?—A. Yes, sir.

Q. When they tried to indict him?—A. Yes, sir.

Q. Did you repeat this conversation to the grand jury?—A. Yes, sir.

Q. Just as you have given it here?—A. Yes, sir.

Q. That he talked in such a way as to convey the impression to you that he knew who had done the shooting and had been in some way a party to it?—A. I have just been answering the questions I have been asked about it. I have not said exactly all the conversation I had with him. I have just been answering your questions.

Q. I understand. I want to know whether you told the grand jury just what you have told us.—A. Yes, sir.

Q. And still the grand jury did not indict him?—A. No, sir; they did not indict him.

Q. Do you know why, after such conversation as that being repeated to them?—A. I do not know.

Q. That conversation was enough to satisfy you that he knew who did the shooting?—A. Oh, well, it was enough to satisfy me, but I do not think it was enough to satisfy the grand jury.

Q. Was not enough to satisfy the grand jury?—A. No, sir.

Q. Was that because they did not believe you?—A. That may be.

Q. At any rate, he has been in jail ever since?—A. I believe he is there yet.

Q. And no trial?—A. No trial.

Q. Have you seen him at all recently?—A. I have seen him about three or four months ago.

Q. How did you happen to see him then?—A. I went there with a New York newspaper man that asked me to go to the jail with him; that he wanted to see this negro.

Q. You went in company with him?—A. Yes, sir.

Q. What took place then?—A. Well, the newspaper man went and questioned him, because this newspaper man had read in some paper that this negro was crazy.

Q. How did you find him?—A. He was just as crazy as I am, right now.

Q. That is, he is not crazy at all?—A. No, sir; and he never has been, either.

Q. Never has been?—A. No, sir.

Q. Who reported that he was crazy?—A. Some newspaper; somebody.

Q. Nobody in Brownsville reported that he was crazy?—A. I believe somebody in Brownsville.

Q. Who is the jailer?—A. The jailer is a fellow by the name of Manuel Villarreal.

Q. Does he speak Spanish or English?—A. He speaks Spanish and a little English.

Q. The jailer does not speak English?—A. A little English; very little English.

Q. Did he tell you that the man was crazy?—A. He told me that the man was not crazy.

Q. Who was it in Brownsville that started the story that he was crazy?—A. I don't know.

Q. You said you understood somebody in Brownsville started that story?—A. I understood it was somebody there wrote that article in some paper, and I don't know what paper it was, claiming that the negro was crazy.

Q. What occurred when you went to see him? What did you talk about?—A. The newspaper man was the one who questioned him, and he answered all his questions. That is all I can tell about it.

Q. What newspaper man was that? What newspaper did he represent?—A. I don't remember. He told me that he was from the New York World.

Q. Was he a white man?—A. Yes, sir.

Q. Did you learn his name?—A. Yes, sir; I heard his name, but I forgot it.

Q. Can you tell us when this was?—A. It was about three or four months ago.

Q. That would take us back into the winter. Was it in the winter time?—A. Yes, sir; I think it was something like that. I went and introduced him to Mr. Wheeler, the Daily Herald man in Brownsville.

Q. You introduced the newspaper man?—A. Yes, sir; and Mr. Wheeler knows who he is exactly.

Q. Mr. Wheeler knows? Give us Mr. Wheeler's name in full.—A. Jesse O. Wheeler.

Q. And he is the editor of the Brownsville Daily Herald?—A. The Brownsville Daily Herald.

Q. He can tell us all about it?—A. Yes, sir.

Q. Did Mr. Wheeler go with you to see Allison?—A. No, sir; this was after we came back from the jail.

Q. Now, in your testimony yesterday you stated that Lieutenant Leckie cut a bullet out of the post in front of your saloon.—A. That I heard that he did. I never did see him.

Q. What kind of a post was that?—A. It was a 6 by 4.

Q. It is a pine post?—A. Yes, sir.

Q. Six by four?—A. Yes, sir.

Q. That is, it was 6 inches wide fronting the street, and 4 inches in depth?—A. Yes, sir.

Q. Running back towards your saloon?—A. Yes, sir.

Q. That was the post that supported the awning?—A. Yes, sir.

Q. Is that a wooden awning?—A. Yes, sir.

Q. It is a permanent structure?—A. Yes, sir.

Q. Stands there all the time?—A. Yes, sir.

Q. Now, you say you did not see that bullet cut out?—A. No, sir.

Q. You were not there?—A. I was not there.

Q. When did you first see that bullet hole there?—A. I seen it the morning after the shooting—the morning of the 14th.

Q. It was not there before that?—A. No, sir.

Q. It was a fresh bullet hole, just made?—A. Yes, sir.

Q. Evidently made the night before?—A. The night before.

Q. When was it that Lieutenant Leckie cut that out, if you

know?—A. I could not tell you. I know that I was not in Brownsville when he cut it out. I believe I had made a trip to Corpus Christi or San Antonio.

Q. And you have not seen the bullet?—A. No, sir.

Q. Who was it told you about seeing it?—A. I believe it was my brother.

Q. Was your brother present?—A. Yes, sir.

Q. He was there when it was cut out?—A. Yes, sir.

Q. That is not his saloon?—A. Yes, sir; it is. We are three brothers. One runs the saloon at the Market square, and then there are two of us in Elizabeth street.

Q. You are not a partner in the White Elephant?—A. No, sir.

Q. But you and another brother have the Elizabeth street place?—A. Yes, sir.

Q. Have you any name for your saloon except Crixell's?—A. Crixell's saloon; that is all.

Q. And your brother, you think, was present?—A. I believe he was there; yes, sir.

Q. Is he here as a witness?—A. No, sir; he is not here.

Q. Did he tell you about the bullet that was found?—A. I believe he did tell me.

Q. What did he tell you?—A. I believe he only told me that Lieutenant Leckie had taken this bullet out of there—some bullet out of there.

Q. Did he tell you what kind of a bullet it was?—A. No, sir.

Q. Did he tell you that it was a lead bullet?—A. No, sir.

Q. Without any steel jacket on it?—A. No, sir.

Q. Do you mean to tell us that he did not tell you that?—A. I mean to tell you that he did not say any more to me.

Q. Did not say any more—he did not say anything about a steel jacket?—A. No, sir. I seen that they had bored on the inside of the post to take the bullet out, and I believe I asked him who took this bullet out, and he just said Lieutenant Leckie came and cut it out. It seems funny that he did not say any more to me, but he does not talk to me more than two or three words a day, unless it is necessary there in the business.

Q. You are so busy that you have not much time for idle conversation?—A. He is naturally that way, does not talk unless he has to.

Q. Did it not occur to you that that was rather an important circumstance that a bullet should be cut out of that post which had been fired in there that night, which was simply a lead bullet without any steel jacket on it?

Senator WARNER. He has not stated that it was simply a lead bullet without any steel jacket.

Senator FORAKER. I asked him if it was not, a while ago, and he said that he said nothing about any steel jacket.

Senator WARNER. That is true.

Senator OVERMAN. I don't think that you may assume that it is a lead bullet.

Senator FORAKER. I have already proven that it was a lead bullet.

Senator OVERMAN. There is some conflict of testimony.

Senator FORAKER. And have proven by this witness that he said nothing about a steel jacket on it.

Senator FRAZIER. I understood this witness to state yesterday that he heard in some way that a part of a steel jacket was taken out.

Senator FORAKER. I asked him if he said anything about a steel jacket, and he said "No."

The WITNESS. I understand that a fellow by the name of Jose Garza had found pieces of a steel jacket in there, and that he took them home; that he got the pieces. I heard this; of course I did not see it.

Q. You heard that later?—A. Yes, sir.

Q. Who told you that?—A. I don't remember. Somebody told me.

Q. Was that after your brother told you about Leckie cutting the bullet out?—A. Yes, sir.

Q. Where does that man Garza live?—A. He lives in Brownsville.

Q. What does he do?—A. He is a drayman.

Q. Did you talk with him yourself?—A. No, sir; not about this matter.

Q. All you know about that is that you heard from somebody, and do not now remember who it was, that this drayman had found some pieces of a steel jacket in that same hole?—A. Yes, sir.

Q. That is all you know about it?—A. Yes, sir.

Q. You have no knowledge yourself?—A. No, sir.

Q. You did not see the bullet?—A. No, sir.

Q. There was no firing in Elizabeth street opposite your saloon that night?—A. No; I don't think there was any. I don't think they came any farther than the corner of the Miller Hotel.

By Senator OVERMAN:

Q. Was there any firing in front of the Miller Hotel, on Elizabeth street?—A. No; on Fourteenth street, to the corner of the hotel.

By Senator FORAKER:

Q. The Tillman saloon is right opposite you, isn't it?—A. Yes, sir.

Q. A bullet fired from the Tillman saloon, crossing the street, would strike your saloon, wouldn't it?—A. Well, if they would go in there and fire, it is possible; yes, sir.

Q. That is, people standing in the courtyard in the rear of Tillman's saloon, firing through, would go right straight through?—A. Yes, sir; because the doors are glass and wood, and it easily could be.

Q. And, as a matter of fact, one of those bullets did come from there that night, didn't it?—A. It may be.

Q. Didn't you know that it had, grazing a post out in front of Tillman's saloon?—A. That is what we supposed; yes, sir.

Q. Crossing the street, through to your saloon?—A. Yes, sir; that is what we supposed.

Q. That was this bullet, was it not?—A. Yes, sir.

By Senator OVERMAN:

Q. Could a man have stood in the saloon and fired that bullet into the post, the bullet that was cut out by Leckie?—A. If a fellow would fire from Tillman's saloon yard, it is possible that that bullet could go through.

By Senator FORAKER:

Q. And come to your post?—A. Come across the street, but if they fired from the alley, it could not be.

By Senator OVERMAN:

Q. If they had stood inside the gate, could it have been done?—

A. Yes, sir.

By Senator FRAZIER:

Q. But if they stood outside of the gate, it could not have been done?—A. No, sir.

By Senator FORAKER:

Q. Wherever it was fired from, it did lodge there that night?—

A. Yes, sir.

Q. And it was cut out later by Lieutenant Leckie?—A. Yes, sir.

Q. Can you tell why Allison is kept so long in jail without being brought to trial?—A. No, sir.

Q. The man whom it was charged he undertook to murder, or that he made an assault upon, lives there, does he, or not?—A. I don't know who he is.

Q. He is a colored man, isn't he?—A. Yes, sir; I understand he is a colored man.

Q. Don't you know that he has disclaimed the charge that Allison undertook to assault him?—A. I don't know a thing about it.

Q. Haven't you heard that?—A. No, sir.

Q. And don't you know that he has notified the authorities that he does not think he ever assaulted him, or intended to assault him, and that he does not want to prosecute him and could not give any testimony about him?—A. I don't know anything about that.

Q. All you know is, that Allison has been there all this while?—A. Yes, sir.

Q. Now, you say that was a very quiet night?—A. Yes, sir; it was.

Q. Everybody had closed, and everybody had left your gambling room as early as 10 o'clock that night?—A. Yes, sir. Well for the last two or three weeks before that they used to close early, between 10 and 11 o'clock.

Q. Was not that whole day a day of excitement? Were not men all that day long talking about the Evans outrage, which it was claimed had been perpetrated the night before?—A. It was two or three fellows especially that talked too much; but I will tell you. Brownsville is not the town that you figure on. Brownsville has not got so many bad people there. They do not talk so much.

Q. Who has said that they had any bad people?—A. Well, you put it in the question like everybody was excited and talking about it.

Q. Didn't you tell us yesterday that everybody was excited?—A. After the shooting; yes, sir.

Q. Didn't you tell us that there was a great deal of excitement?—A. After the shooting.

Q. No; I mean early on Monday morning, and that when Captain Macklin came back from the march this matter had been talked about?—A. Excuse me. If you will read the evidence you will find I did not say that on Monday I knew everybody was excited.

Q. Didn't you say that the Evans matter was being talked about at that early hour, when he returned at noon?—A. "Talked about" is something else; not "everybody excited."

Q. Well, were they not talking about it in a way that showed their indignation?—A. Well, one or two parties were there.

Q. Who were they?—A. Billingsley was one of them, and maybe two or three other fellows. Mr. Evans himself was excited, of course, and the people in town did not like it, as far as that was concerned. I did not like it, either.

Q. You did not like it, and when you spoke about it at all, you spoke in condemnation?—A. It would not do me any good to go around and talk about it.

Q. Did that talk increase during the day, or did it subside?—A. Well, about 2 or 3 o'clock during the day, Doctor Combe came to my place.

Q. Doctor who?—A. Dr. Fred Combe.

Q. About 2 or 3 o'clock in the day?—A. Yes, sir; and he said, "Joe, do you hear many of these people around here talking about this Evans affair?" I said, "No; not many." He said, "If you hear anybody say anything about it, you tell them that I have just come from a conference with Major Penrose, have had a long talk with him, and not to say anything, but let the thing go, and that he will find the guilty one."

Q. That was later than 3 o'clock, was it not?—A. Well, sir, I don't remember—during the day.

Q. He has testified that it was about half past 5.—A. He went around and notified everybody around there in Elizabeth street about it, and it was quieted down.

Q. Why should he go around notifying people, or requesting people, not to talk about it, and notifying them that he had had this interview, unless he was aware that people generally were a good deal excited about it, or generally talking about it?—A. Well, I don't know. Of course he was trying to quiet the thing down as much as he could.

Q. Mr. Crixell, was there not a meeting that afternoon of a number of citizens, some of them in your saloon and others of them to your knowledge in the Tillman saloon, right across from you, with a view to discussing this matter of planning a way to revenge the citizens of Brownsville upon the soldiers for that outrage?—A. It was not a meeting in my saloon and it was no meeting at Tillman's saloon and is was no meeting in Brownsville that day.

Q. There was none at the time?—A. I am satisfied of that.

Q. Positive of that?—A. Yes, sir; I am positive of that.

Q. You have told about when you came down and opened your doors after the firing, that you looked across the way and you saw the barkeeper and a lot of people in front of Tillman's saloon?—A. Yes, sir.

Q. Who was the barkeeper to whom you referred?—A. The one that got killed.

Q. After the firing, was he in front of the saloon?—A. No; when I asked him to close up the door.

Q. I understood you to say that it was after the firing was over you saw the barkeeper?—A. How could I ask him to close up the doors after he was dead?

Q. Well, you could not, I guess.—A. Exactly.

Q. We will agree about that.—A. I say it was when the firing was started that I went to the door.

Q. How many barkeepers did he have?—A. Only that one.

Q. Was there anybody else employed about his place?—A. I don't know if he had a day man or not, sir.

Q. Did he have any colored men?—A. Not that I know of.

Q. Do you know Mack Hamilton?—A. Yes, sir.

Q. Did you see him?—A. Mack Hamilton; I seen him around town them days. He ran a little restaurant, a lunch counter, there.

Q. He had one in Tillman's saloon, hadn't he?—A. I don't know if he had it at that time.

Q. And was running it that day?—A. I don't know if he had it then.

Q. You did not see him that night at all?—A. No; I did not see him at all that night.

Q. You do not refer to him when you speak about the barkeeper and several people out in front?—A. Oh, no. Mack Hamilton could not be in Tillman's saloon that night.

Q. How do you know he could not be there that night? Why could he not be there that night, if he was running a restaurant?—A. Because I believe he had rather be in with the colored boys that night than in town.

By Senator OVERMAN:

Q. How is that?—A. I say I believe he would rather go with the colored boys that night than to have been in town.

By Senator FORAKER:

Q. Well, do you know where he was?—A. I don't know.

Q. Do you know whether they had any guns collected in the Tillman saloon?—A. No; I don't.

Q. Do you know whether anybody who wanted a gun went there, whether any people who wanted guns went there and got them?—A. After the shooting?

Q. Before the shooting?—A. No, sir.

Q. You don't know anything about that? If that happened, you have no knowledge of it?—A. After the shooting I had guns in my saloon; I had about 15 of them.

Q. About how many?—A. About 15, after the shooting.

Q. When did you get them?—A. I got them the morning of the 14th.

Q. Where did you get them?—A. People that went there and just left them there.

Q. Why did they go and leave their guns in your saloon?—A. They were expecting another attack from the negroes.

Q. And they wanted them?—A. Where they could protect themselves. We all was in the same fix.

Q. What kind of guns were those?—A. Shotguns, six-shooters, and all kinds.

Q. All kinds—did you have any rifles of any kind?—A. Winchester, and some of those automatic .30-30's, and all kinds.

Q. Did you have any of the old carbines that the Rangers used to have?—A. I don't know what kind of guns they were.

Q. You don't know?—A. No, sir.

Q. Who brought those guns—everybody who had a gun?—A. Well, citizens and officers; yes, sir. They would not carry them

around town; they would just go and put them there to have them handy.

Q. Did they take guns to other saloons in the same way?—A. I believe they did.

Q. Do you know what they took to Tillman's saloon?—A. I don't know. Of course this was the day after the shooting.

Q. I understand this was after the shooting. How long did you keep them there?—A. I believe it was about three or four days afterwards that the people went armed around there, especially at night.

Q. Now, in that gun that Mayor Combe took away from that man who was just going with it into your saloon, there was one cartridge that was not fired?—A. Oh, no; an empty shell that had been fired.

Q. What was it?—A. An empty shell.

Q. Didn't you tell us yesterday that it was unloaded, except only one cartridge in the magazine?—A. The gun was unloaded. There was one empty shell in the magazine.

Q. Which had not been thrown out?—A. Because the ejector would not work it out.

Q. It would not work it out?—A. Yes, sir.

Q. How many cartridges could be fired out of that gun at once?—A. Twelve, I believe.

Q. Twelve cartridges. That was a Winchester, which would accommodate twelve cartridges?—A. Yes, sir.

Q. And whatever number it had had in it, they had all been fired and the shells had all been thrown out, except one empty shell that remained. Is that it?—A. Well, yes; certainly you can shoot all of them, and the last one would remain.

Q. Well, I say, the last one did remain. There was only one empty shell remaining?—A. Yes, sir.

Q. Was there no cartridge in it at all?—A. I think it was empty.

Q. No cartridge; just one empty shell?—A. Yes, sir.

Q. And when you undertook to work it out, it would not throw that out?—A. It would not throw that out.

Q. Did you find out what was the matter with it?—A. Yes, sir. I knew what was the matter with it, because I had had it six months in that condition in my possession.

Q. It had been six months in your possession?—A. Yes, sir.

Q. I thought you said it was in your brother's possession?—A. No; it was at my brother's at the time he got it.

Q. At the White Elephant?—A. It was out of fix.

Q. What was it doing down there?—A. It was pawned by a fellow.

Q. Pawned?—A. Yes, sir. He wanted a little money, and I gave it to him, and he left his Winchester there about six months before that, and I wanted to go out hunting once, and I found out that the Winchester was out of fix, with that empty shell in there, six months before this trouble came up. Then my brother took it out with the intention of having it fixed and use it; just had it behind the bar. When this shooting came up this fellow, Jose Garza, he was in my brother's saloon, and he asked for some kind of an arm to go out and see what was the matter, and the boys, knowing the fix the gun was in, gave him this gun as a joke, and he ran down the street with the gun, and Fred Combe found him with it.

Q. They gave it to him as a joke?—A. Yes, sir; after the shooting was over.

Q. Without telling him anything about it?—A. Yes, sir.

Q. At the time when they gave him this the shooting was just over, was it not?—A. Just over.

Q. Didn't they give him any cartridges?—A. No, sir; just the gun. It would not do him any good to give him any cartridges.

Q. Well, I know; but he did not know it was not in order?—A. He did not know it.

Q. Didn't he ask for any cartridges?—A. No, sir; he took it and ran.

Q. To your saloon?—A. Yes, sir; that is the way that them boys told it to me afterwards.

Q. Did your brother have any cartridges that he could have given him?—A. No.

Q. Did you have any cartridges in your saloon?—A. Not for that gun—that is, not for a Winchester. I have got cartridges for six-shooters.

Q. Don't you have cartridges for army rifles?—A. I have got cartridges for a double-barreled shotgun.

Q. Didn't you have cartridges for the Krag and also for the Springfield in your saloon, and didn't you have them standing on your sideboard as a sort of an ornament?—A. Oh, I have got some cartridges there.

Q. Yes.—A. As an ornament, the shells that were used to kill two brothers, to shoot two brothers in Matamoros about six years ago. That is all I have got.

Q. Didn't you have some cartridges there in clips, standing on your sideboard?—A. No, sir; them is the only ones I have.

Q. Had them in clips?—A. I had them in a collection. I had the whip that the captain used to command the company that shot those two brothers and the cartridges.

Q. Tell me about those two rowdies who were shot. You say it was in Matamoros. When was that?—A. Oh, six or seven years ago.

Q. Who were they?—A. Two Mexican brothers.

Q. Who was it shot them?—A. They murdered a man there, to rob him, and they were caught and tried.

Q. Over in Matamoros?—A. Yes, sir; and they were condemned to death.

Q. And were executed?—A. Yes, sir.

Q. We do not care anything about that.—A. That is what I had there.

Q. And you had some cartridges that were used on that occasion?—A. Yes, sir; I had them, and a picture of the two brothers, and everything.

By Senator OVERMAN:

Q. You had them as a curiosity?—A. Yes, sir.

By Senator FORAKER:

Q. (Showing the witness five Springfield cartridges in a clip.) Did you have any cartridges in that condition?—A. No.

Q. You had nothing of that kind standing on the sideboard in your saloon?—A. No, sir; not that I remember.

Q. Never?—A. No.

Q. Do you know what this is that I point to here?—A. Yes, sir.

Q. That is a clip?—A. Yes, sir.

Q. You never had any clips about your house?—A. No.

Q. No cartridges about your house in a clip?—A. As far as cartridges are concerned, I had a few cartridges there lots of times that came from the Twenty-sixth. The boys used to have them in their pockets, you know—carried them around. I have seen lots of them. Of course, I think it was not the same cartridge.

Q. Look at these and see if you did not have the same kind of cartridge that we have here, if the men of the Twenty-sixth were not in the habit of bringing cartridges like that to you repeatedly?—A. I believe it is just about the same.

Q. They did bring them there and sold them, didn't they?

Senator WARNER. A little louder.

By Senator FORAKER:

Q. Did they bring them there and sell them to you?—A. Oh, they used to sell them all around, as far as that is concerned, but they are not this same cartridge, though.

Q. Was there any trouble to get cartridges from the men of the Twenty-sixth?—A. Them days?

Q. Yes.—A. Well, no; I believe you could get them.

Q. You could get all you wanted?—A. Yes, sir.

By Senator OVERMAN:

Q. How many of those cartridges did you have from the Twenty-sixth? How many cartridges did you have in your barroom?—A. I did not have any at all in my barroom. I have seen lots of them.

Q. You did not have any at all?—A. No, sir; but I have seen them. I know that you could buy them from the Twenty-sixth.

Q. I am asking you if you had any?—A. No; I have not got any use for them.

By Senator FORAKER:

Q. You had none?—A. No, sir.

Q. Yet you did have some on your sideboard, that you referred to a minute ago?—A. No; I did not say that. I said that I saw them, because the soldier boys used to take some of them in their pockets and show them around.

Q. When was that—just before they left?—A. Well, the Twenty-fifth—the Twenty-sixth, I mean, the white boys.

Q. When they left there?—A. Before, and all the time.

Q. All the time?—A. Yes, sir. They were peddling cartridges on the street there every day that they could get somebody to buy them from them.

Q. They were peddling them around every day they could get somebody to buy?—A. Yes, sir.

Q. What did they sell them for?—A. I don't know.

Q. At any rate, it was no trouble to get the army cartridge from the Twenty-sixth men?—A. I don't think it was any trouble to get the cartridges, but it was trouble to find somebody who had any arms to shoot the cartridges. You know it was nobody there who had the rifles to use them.

Q. Do you know Mr. Blalock?—A. Yes, sir.

Q. Do you know whether he had a gun?—A. I don't know.

Q. Or what kind of a gun he had? I think I asked you that yesterday. We will let that go, I believe.

By Senator OVERMAN:

Q. Who was this man Hamilton? Was he a white man or a colored man?—A. A negro—a colored man.

Q. You say he was not there that night?—A. Oh, no.

By Senator FOSTER:

Q. Did you ever supply or furnish any cartridges to anybody in Brownsville—citizen or police—at any time before this outbreak that night?—A. Me?

Q. Yes.—A. No, sir.

Senator WARNER. Speak up louder. What is your answer to that?

A. I say no.

By Senator FOSTER:

Q. Whatever cartridges you had around your barroom were simply souvenirs, as I understand?—A. I only had them empty shells that the two Mexican brothers were executed with in Matamoros—exhibited them there—that is all I had. Of course I had cartridges for a six-shooter—six-shooter cartridges for my own use.

Q. But you had none for sale?—A. Oh, no, sir.

Q. As I understood you a moment ago, you did not have any cartridges at all in your bar except those empty shells?—A. Empty shells.

Q. With which they shot the brothers?—A. Yes, sir.

Q. Do you know whether there is an indictment pending against this man Allison, whom you say is in jail?—A. Yes, sir; I heard that he was indicted for an assault with intent to murder.

Q. And has there been one term of court since that indictment was found?—A. It was one term of court.

Q. You don't know why he was not tried at that term of court?—A. I don't know, only what I heard. I heard that at the term of court they could not get the evidence they wanted to prosecute him.

Q. Could not get the evidence, and that the case was continued?—A. Continued until the next term of the court.

TESTIMONY OF WILLIAM KELLY.

WILLIAM KELLY, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Please give your name in full.—A. William Kelly.

Q. What is your age?—A. I am in my sixty-eighth year.

Q. Your home is in Brownsville?—A. In Brownsville.

Q. How long have you lived in Brownsville?—A. It will be forty-two years next month.

Q. You are called Captain Kelly. Were you in the service?—A. I was in the United States service, in the volunteers.

Q. You may state, Captain, what service you had.—A. I was in the First New York Mounted Rifles, an enlisted man, I think from the 16th of January, 1862, until February, 1864. Then I was given a commission in the Eighth United States Colored Troops, commanded by Col. Sam Armstrong, and I remained there until we were ordered

to Brazos de Santiago, when I was transferred to the staff of General Steele as a depot quartermaster.

Q. Was it after Appomattox that you were transferred?—A. Oh, yes. We were sent down from City Point after Appomattox, after the march to City Point. We were sent down to report to General Steele, who was commanding at Mobile, and ordered to the Rio Grande.

Q. With your company?—A. With the entire regiment.

Q. And that was the Eighth?—A. That was the Eighth United States Colored Troops.

Q. You were in command of your company, the colored company, how many months?—A. From then until I was sent to the quartermaster's department in June. My captain was killed and I commanded the company from December, 1864, until the end.

Q. And then you were a depot quartermaster?—A. I was depot quartermaster at Brazos de Santiago a little over five months.

Q. Where is that with reference to Brownsville?—A. It is the seaport of Brownsville, 22 miles from Brownsville, the point at which we received all our stores for what was known as the army of the Rio Grande.

Q. Were you then mustered out of the service?—A. Yes, sir; I was mustered out at Brazos de Santiago.

Q. And located in Brownsville?—A. Located in Brownsville, practically all the time, backward and forward, from Brownsville to Brazos de Santiago.

Q. You have taken some interest in army matters since then, have you not?—A. Very much. I have always had a great deal of interest.

Q. You have a son who is a captain in the Army?—A. Yes, sir; I have a son who is a captain in the Ninth Cavalry.

Q. And where is he?—A. He is at West Point. He has been on detail duty there about four years, as associate professor of modern languages.

Q. Now, Captain, in your own way and in your own time, I wish you would tell us about Brownsville and the troops that have been there from the time of the establishment of that fort, if you know.—A. In 1865 Brownsville was the headquarters of what was known as the Army of the Rio Grande, commanded first by Gen. Fred Steele, and immediately afterwards, when General Steele was relieved by General Weitzel, of the Twenty-fifth Corps. Whatever the intention of the Government was in sending troops down there, the necessity ceased sometime about January, 1866, and they commenced mustering out troops and sending them North—those that wanted to go, and most of them did—sending them to their homes, until there were probably about four or five regiments left. Three of those were colored and two were white regiments. After a while the greater portion of those were mustered out and sent home and I think the first troops that came down there after the reorganization were the Tenth Infantry, under Gen. Alexander McD. McCook, who, by the way, was lieutenant-colonel of the regiment, and not colonel. He built the barracks at Fort Brown and subsequently the barracks at Fort Ringgold.

Q. The Tenth Infantry?—A. The Tenth Infantry.

Q. That was a white regiment?—A. Oh, yes; there were but two of

the colored regiments. Then he was relieved by the Twenty-fourth, one of the two colored infantry regiments. The Twenty-fourth remained at Brownsville for, I think, quite two years, possibly more, and I do not think there were any troops ever there before or since that were better behaved or better treated by the people. They had quite a number of distinguished officers—that is, men who afterwards, in the course of time, became distinguished. For instance, the lieutenant-colonel was General Shafter afterwards, and the major was Major Merriam. Among the captains were Corbin, Clauss, and Gilmore, all of whom became generals afterwards, and two or three others whom I have forgotten.

Q. It was a magnificent organization?—A. It was a splendidly organized regiment. They had fine officers.

By Senator FORAKER:

Q. Do I understand you to say that they were the first troops there after it was built?—A. No; it was first occupied by the Tenth Infantry, but for only a short time; in fact, the Tenth Infantry built the post. Then it was removed up to Ringgold, where General McCook built the post there, and then he was relieved—

Q. Who?—A. Gen. Alexander McCook, who died a short time ago; but I think there was nobody there between the Tenth and the Twenty-fourth—in fact, the Twenty-fourth relieved McCook.

By Senator WARNER:

Q. There was no trouble whatever with those troops?—A. Oh, none at all.

Q. Just go on and give the history in your own way.—A. Well, there is but little more history to give. By the way, we had also at that time a light battery of colored troops, the last one, I think, that was in the service. I have forgotten the name of the captain. They were mustered out there, and went North.

Q. That was of the volunteers?—A. Of the United States Volunteers. It was not a State volunteer State organization.

By Senator TALIAFERRO:

Q. No trouble with them?—A. None at all. They were all of them good men. There were four officers with the battery and I think they were all old sergeants of the regular artillery. I knew them all, of course, but I have forgotten their names.

By Senator WARNER:

Q. Now, Captain, as nearly as you can, state how it has been occupied since that time.—A. The post has never been entirely bare of troops. It got down frequently, between that time and 1882 or 1883, to one company, but more frequently was the headquarters of a regiment. For instance, the Eighth Cavalry was there with regimental headquarters and band, and after that the Twentieth Infantry, General Sykes, came there, in 1880. After that the Nineteenth Infantry, General Smyth. Then it was reduced to a one-company post, and some time after that Captain Reed's troop of the Ninth Cavalry came there. That probably was as fine a body of men for its size as I ever saw under arms.

Q. The Ninth Cavalry: was that a colored regiment?—A. A colored regiment; oh, yes. Reed, its captain, was a West Pointer, and

both the lieutenants were West Point men, and he had a magnificent body of men and took good care of them. They were thoroughly disciplined and thoroughly drilled. I think Reed was relieved by Captain, now Major or Lieutenant-Colonel, Day.

By Senator FORAKER:

Q. I did not get that name.—A. Robert D. Reed. He was relieved, I believe, by Captain Day, of the same regiment, with another troop of colored cavalry. They were excellent men, all of them.

By Senator FRAZIER:

Q. About what year was that?—A. I think Day came there in 1886, or 1887. I am not very certain about those dates, because I did not charge my mind with them very much. I think he was there about a year. He was then a captain, and had an excellent troop of men.

Q. Was he relieved by another troop of the same regiment, the Eighth?—A. No; the other cavalry regiment, the Tenth.

Q. And the Tenth was also colored?—A. Also colored.

Q. Go ahead, Captain.—A. I am trying to think of his name, but it just escapes my memory for the moment.

Q. You need not give the name.—A. It was a troop of the Tenth Cavalry, however, and as well-behaved a body of men as I ever saw anywhere. We never had any trouble with them in the world. Since then I think there have been no other colored troops at Brownsville, until the Twenty-fifth went down there.

Q. When was it this Tenth Cavalry left there?—A. They remained there until they were relieved by the Third, probably in 1891, I think, possibly, or somewhere around there.

Q. During a considerable portion of the period since the establishment of Fort Brown it has been occupied by colored troops?—A. Yes, sir; at intervals. There was no large body of colored troops there after 1878, I think, until these troops of the Ninth and Tenth Cavalry, that I have just described came there.

Q. And during all those times did you hear of any clash or any trouble with the citizens or between the citizens and the soldiers?—A. Oh, none at all. The fact of the matter is, the bulk of our population, the Mexican population, fraternize with the colored troops and make no distinction between them and their own race, none at all. They intermarry whenever the opportunity is presented, and practically the Mexican has no objection to the colored man as such. The better class of Mexicans do draw the line very slightly.

Q. But as far as the ordinary Mexicans are concerned, there is no racial prejudice at all?—A. None at all. On the contrary. You see we had very few negroes down in Brownsville.

Q. Why was that?—A. It arose from the fact that on the border the slave owner could not take his slaves there. They would have crossed the river and would then have been free. Therefore, they never got down to the border at all. I do not think at the close of the war, outside of the troops that were there, there were a dozen negroes in Brownsville; and after the troops were mustered out and went away, I don't think there were a dozen left. Now, I know the fact from this: I was for many years the chairman of the board of public instruction, and under the laws of Texas we were required to

provide a separate school for the colored children. We were not allowed to put them in the same school with whites. The question arose whether the Mexicans were white or colored, and it was decided by the then attorney-general that the Mexicans were white: that is, that they were not colored. Therefore, the Mexicans could come to our white schools and the colored people could not; but we had possibly half a dozen families of negroes, servants about town, who had children, and were entitled to some form of education, and I fixed the matter in this way, and there was never any objection to it. I appointed a colored teacher. We did not have enough children under the law to give them a school, but I assigned enough Mexicans down in the Fourth Ward, down about that place, to go to that school to make up the number, and we carried them as colored, and the Mexicans did not object. The man whom we got as a teacher was an ex-soldier, I think of the Twenty-fourth Infantry, a good man, since dead, and he was an efficient teacher. I do not know where he got his education, but he was a fairly well-informed man, had a common school education, and made a very fair teacher, was very popular both with the Mexicans and the negroes, and held that school for, I think, about five years, but in all that time he never had more than five or six negro children there, and could not have had.

By Senator TALIAFERRO:

Q. At one time, you mean?—A. At one time; oh, yes.

By Senator WARNER:

Q. And you have lived in Brownsville these forty-odd years?—A. Nearly forty-two years.

Q. Now, the white population of Brownsville, is that composed very considerably of old soldiers of the Union Army who remained there?—A. Yes, sir; a number of men who served and remained there, were mustered out there; yes, sir; quite a number.

Q. So that you have maintained a Grand Army post?—A. Oh, yes. Well, it was small, and has unfortunately died down. We had originally thirteen, but those have died down to five survivors.

Q. Do you keep up your organization?—A. Well, we keep it up in a pro forma sort of a way.

Q. The way they do in a great many places now?—A. Yes, sir.

Q. You are also a member of the Loyal Legion, are you?—A. Yes, sir; a member of the Commandery of Kansas, and I have been since 1891, I believe.

Q. Do you know something of the social standing of the people in Brownsville, the white people?—A. Oh, yes; of course I do, necessarily.

Q. Did you say that you were chairman of the board of instruction?—A. Yes, sir; I was chairman of the board of public instruction for, I think, eight years.

Q. And your present business is what?—A. I am a banker at present, president of the First National Bank of Brownsville.

Q. How long have you been engaged as a banker?—A. We organized the bank in 1891.

Q. Were you in the banking business before that?—A. No; I was in the steamboat business. I owned some steamboats running on the Rio Grande before that, for several years.

Q. Did you know a Captain Kilburn?—A. Very well indeed.

Q. He was there with the Twenty-sixth?—A. With the Twenty-sixth Infantry; yes, sir.

Q. How long did you know him?—A. I don't remember the dates; from the time his command came there. He was a captain in the Twenty-sixth Infantry. There was a battalion of the regiment there. He went away before they did. He was relieved, I think, and went to San Antonio, I don't know exactly in what capacity. I believe he was appointed a regimental quartermaster or battalion quartermaster in San Antonio, but he left some months before the regiment did.

Q. Without reading all of his statement, I refer to page 1026, Volume II, of the hearings, where Captain Kilburn testified before this committee as to the character and social standing of the people of Brownsville, that there were only twelve or fourteen families who possessed the natural innate refinement of ladies and gentlemen.—

A. Well, I was very astonished when I read that, because I believe that Captain Kilburn claims at present that he was misunderstood, or something to that effect. Of course it is not true. No matter what his object was in making that statement, there is not a word of truth in it.

Q. When you say that he claims that he was misunderstood, how do you understand that, Captain?—A. Well, Captain Hay, who was the judge-advocate of the court-martial held to try Major Penrose, I think (I may confuse the two courts-martial, the Penrose and the Macklin court-martial, but he was the judge-advocate of one of them), told me in Brownsville within the last ten days that Kilburn was very much aggrieved at the action of the people in Brownsville in denouncing him as they had denounced him, because he said that Kilburn says he never said anything that could be construed to mean that there were only twelve families in Brownsville with whom he would associate.

Q. Do you know what Captain Kilburn's social standing was in Brownsville?—A. When he came there he was treated as all the officers of the United States Army have ever been treated who behaved themselves.

By Senator FRAZIER:

Q. How is that?—A. Treated thoroughly well, with the entre to every house in the place that a gentleman should visit. Kilburn has been in my house very frequently.

By Senator WARNER:

Q. How long did that continue, Captain?—A. It continued up to within probably two or three months, so far as I know, before he left. A good deal of rumor was floating about as to the connection of Kilburn and a man named Schmidt—

Q. I do not care about any specific act, but what was his reputation after that? Was his reputation such as to be received socially in good families?—A. Well, many families received him, but he was tabooed by a great number, my own family among the rest. I had to ask my son-in-law to say to Captain Kilburn that I had no desire to see him in my house any more; and that was because of information that I received from customs officers and others, who said they felt he was not fit to associate with my daughters.

Q. That was on account of his reputation socially?—A. Well, it could hardly be said to be reputation socially. It was on account of specific acts that they knew and had seen.

By Senator OVERMAN:

Q. Was it lewdness?—A. Lewdness.

By Senator WARNER:

Q. Now, Captain, you were at Brownsville on the night of August 13 last?—A. I was, sir.

Q. At your home?—A. At home.

Q. Where was your home, Captain?—A. My home was on the corner of Sixth and Washington streets. The house occupied the entire block; that is, the half block.

Q. To return a moment, you heard, did you not, of what was known as the Tate incident there, of Tate's striking a colored soldier?—A. Oh, yes; I heard of it at the time.

Q. Did you have any talk with a person who was an eye-witness to that transaction?—A. I did.

Q. Who was that?—A. Mrs. Dalzell, the wife of one of our prominent and most wealthy citizens there, who lived on the corner exactly opposite the place where the incident occurred.

Q. She had seen it?—A. She had seen it. She was sitting on her gallery and saw just what occurred.

Q. What was her statement as to the incident?—A. She said that Mrs. Tate and another lady, whose name I have forgotten, were coming down the street and stopped at the corner of a vacant lot opposite her house. They were joined there by two other young ladies named Brule, two sisters, and they were standing grouped on the sidewalk, and Tate was behind them some little distance, with his child by the hand. Two negro soldiers came up the street, and first they were walking together abreast. When they came near them they dropped into file, and the leading one passed in between those ladies, and, she said, threw his arms up and knocked one of them, who was afterwards known to be Mrs. Tate, off the sidewalk into the gutter. Thereupon, Tate jumped forward and drew his pistol and knocked the fellow down, did not strike him more than once or possibly twice.

Q. Was that circumstance talked of there?—A. Oh, very much. Everybody knew about it.

Q. Did you also hear what was known as the Evans incident?—A. Yes, sir; I heard it. I saw it published in the newspapers and heard it from people who live down in that part of the town. I do not know that I heard anyone speak of it who saw it; I think not.

Q. But heard of it?—A. Heard of it.

Q. Your acquaintance was an extensive one in Brownsville, of course?—A. Yes, sir.

Q. Owing to your business?—A. I know everybody.

Q. Coming into contact with a great many persons?—A. All of the people who are fit to be known.

Q. Captain, during all of the Tate incident and the Evans incident, with all the talk in connection with that, did you ever hear of any threat by anyone to go down and attack the fort or to attack the

soldiers?—A. I never did. It would have been too absurd to have been made. I never heard of any such proposition.

Q. Nothing of the kind?—A. Nothing looking towards an attack of any kind, or any attempt at punishment of that kind. There was some conversation among a few of us the day after the Evans incident; in fact, two or three people came to my bank and said, "You know everybody in the Army, and are acquainted with them all; can't you get these people removed, taken away from here?"

Q. That was the day before the shooting up?—A. The day of the night on which the shooting up took place.

By Senator FRAZIER:

Q. And after the Evans incident?—A. After the Evans incident, caused by that. It arose entirely from the Evans incident.

By Senator WARNER:

Q. That arose, did it not, from the fact of that attack, of that incident, and the question was as to your wives and daughters?—A. Precisely.

Q. Whether they were safe or not?—A. The sentiment was just simply this: "Through the South they are having lynchings of negroes every now and then for attacks on unprotected women; and if this thing is going to continue, we will be in the same fix. Those negroes, since they have made this attack on Evans's wife, may make it on yours or mine, or anybody else's, and we simply can not live in this condition."

Q. And that tended to create a sense of uneasiness?—A. A very great sense of uneasiness and unrest, no question about that.

Q. You shared in that feeling, Captain?—A. Very much, very much. The people who came to me, came to talk to me about it chiefly because it has been understood, and perhaps is the fact, that I know more army officers than any other man in Brownsville. I know a great many officers of considerable rank. I think I have their esteem, as they have mine. The idea of the people who came to me was, "Can you do something? Can you not get them to move these fellows away? There is no need of them here; we do not want them, if this is going to be the case."

Q. And, Captain, are you conscious of having any prejudice against a soldier because of his color?—A. Not the slightest; never had.

Q. You commanded colored troops?—A. Yes, sir; I did; and served with them.

Q. And you respect them as soldiers, for their courage and daring?—A. Very much; there is no question about that at all. Properly led, there are no better soldiers. Properly officered, I believe there are no more civil and inoffensive men. Improperly officered, they are a very dangerous element, in my opinion.

By Senator OVERMAN:

Q. How did the officers and the discipline of this regiment compare with the other negro regiments you have described?—A. So far as I observed, in the short time they were there, Senator, there was absolutely no discipline, or no appearance of it, in Major Penrose's command.

Senator WARNER. Senator Lodge wishes to read to you a telegram.
Senator LODGE. I read the following:

[Telegram.]

DALLAS, TEX., August 17, 1906.

SECRETARY OF WAR, Washington, D. C.:

Some time ago I called your attention to the danger of locating negro troops in Texas, especially at Brownsville. The recent outrageous conduct of such troops there fully justifies the fact of the people of that locality. Can not these troops be removed at once?

C. A. CULBERSON.

The WITNESS. I did not catch the date, Senator.

Senator LODGE. That was the 17th, four days after the shooting.

The WITNESS. After the attack on Brownsville.

Senator WARNER. There is another one.

Senator LODGE. The first one is August 15.

DALLAS, TEX., August 15, 1906.

TAFT, Secretary of War, Washington, D. C.:

We are advised that negro soldiers stationed at Fort Brown have been guilty of most outrageous misconduct, and in the interest of the peace of that community, as well as for the good of the military service of the Government, we urge you to transfer the disorderly negro troops to some other point without delay.

CULBERSON and BAILEY.

Senators.

A. That was after the shooting.

Senator FORAKER. In that telegram of the 17th he says: "Some time ago I called your attention to the danger of locating negro troops in Texas, especially at Brownsville." The communication in which he called attention to that is not in the record.

By Senator WARNER:

Q. You heard this telegram read. Do you know of any protest on the part of the citizens before the Twenty-fifth came there, after it had become known that they had been ordered to that post—any protest against it?—A. No, sir; there was no protest on the part of the citizens that I know of.

Q. Any movement of any kind whatever?—A. Well, I have learned since that a man named S. P. Wreford had written to Senator Culberson, with whom he claimed to have had some previous acquaintance, objecting to the coming of negro troops there. I do not know what he stated. I never saw his letter, but generally it was objecting. Now, Mr. Wreford is not a representative citizen of Brownsville. He owns no property there of any question, and if his character was of any consequence here, he has not any more character than he has property—not a bit.

Senator FORAKER. No more character than he has property.

By Senator WARNER:

Q. I ask you now as to your knowledge, coming to you through your business, as to whether there was any objection on the part of the people of Brownsville to the Twenty-fifth coming there?—A. None at all. The people of Brownsville are composed of probably 75 per cent of Mexicans, or people of Mexican origin—half-breed Mexicans and half-breed Spaniards. There are 10 or 12 per cent of European origin, Spaniards mostly, nearly all; some few Cubans.

The balance are made up of Americans. The Spaniards and Mexicans have no objection to the negroes as such—never have had. The Americans who are there have never expressed any, and the truth is they have lived in harmony with them, probably ignoring them, paying little or no attention to them; but we never have had any feeling about negroes, such as they have in other parts of the South, because the negroes have never been there in sufficient force or strength to create any special trouble. If a negro got drunk he was sent to jail and that was the end of it. He was fined, and if he did not pay his fine he was put on the streets, or something of that sort; but there was no body of negroes of sufficient size and no individuals of any importance that could create any feeling at all among the people as a whole.

Q. You have stated the reason why they were not there before the war, and that after the war only a few families who had been servants located there at any time. Now, can you state what is the reason that the colored people do not locate there?—A. Mexican labor is cheaper than colored labor. They would not work on the same terms. Mexican servants would run them out by underselling them. That is to say, you could hire a Mexican servant for \$8 or \$10 a month Mexican money, where the negro would want at least \$10 or \$20 of the same money, and they found they could not get employment after they came there, and gradually went away. Even those that came with the negro troops from time to time melted away, simply went away to other places. There are two or three negroes who are mechanics. There is one painter, a very good one, who is a negro.

By Senator BULKELEY:

Q. Eight or ten dollars a month, Mexican money. Was that silver money?—A. Silver money.

Q. That is sometimes worth a dollar and sometimes worth half a dollar or less?—A. At present it is just half. It has been down as low as 34 cents.

Q. Or a quarter as much?—A. No; not so low as that.

Q. Eight or ten dollars a month Mexican money. Was that silver quarter as much as \$20 American money?—A. Yes, sir; but our entire circulating medium was Mexican money, and they were all paid in that alike.

Senator FRAZIER. You are not proposing to raise the silver question?

Senator BULKELEY. No; but the reason I made the inquiry is because he said the colored people demanded higher wages.

The WITNESS. Higher wages, but they were all paid in the same money. Our circulating medium for many years, and until about two years ago, was entirely Mexican money.

By Senator WARNER:

Q. Now, Captain, as to the character of that community for its size, as to being peaceable, in Brownsville.—A. I don't think there is a more peaceable or more orderly community anywhere than Brownsville, both the Mexican, the American, and the Spanish population. For many years we had but six policemen in that town. Lately the large influx of strangers—that is to say, people from various States in the Union coming down there to settle, opening up our

lands which are now liable to settlement, because of the coming of the railroad, we have more policemen, and I think there are 12.

Q. I think that is the evidence—that there are twelve.—A. Twelve. I think there are ten privates and two officers, but for many years we had only six, one for each ward, and two officers, and we have never had a riot or trouble of any kind, racial or otherwise, in recent years. During the period of Mexican unrest, while those revolutions were going on in Mexico, we had lots of trouble.

Q. You having taken some interest in the Army, as you state, and all that, you were quite well acquainted with the officers of the Twenty-sixth when they were there?—A. Very well, indeed.

Q. Visited them and they visited you?—A. Oh, yes.

Q. Did they do their business at your bank?—A. Many of them. There are two banks there. Some of them did their business at the other bank.

Q. Now, Captain, I will get you to state, during the entire time the Twenty-sixth was there, did you hear any complaints from the officers of any oppressive treatment whatever by the policemen of Brownsville against the soldiers?—A. I never heard an officer say so at all. I know there were two or three conflicts between drunken soldiers and Mexican policemen, and I have no doubt that the Mexican policemen when they got a man who was drunk did not treat him well.

Q. Whether he was a soldier or not?—A. Well, particularly if he were a soldier.

Q. Did not treat him well?—A. That is to say, I think they would strike a soldier harder and get him to the police station as fast as they could, for two reasons: First, when he was fined, he always managed to pay his fine. His comrades made it up. That appeared to be one of the reasons why they were very likely and very anxious to run a soldier in when they got a chance. I suppose there was some sort of divvy about the fines. I do not know that of my own knowledge. If they ran a Mexican in, he was simply sent to labor on the streets.

Q. He had no money to pay his fine?—A. No money to pay his fine.

By Senator FORAKER:

Q. What was the other reason?

Senator WARNER. He said one reason was that a soldier would pay his fine and the other was that a Mexican did not.

Q. Now, Captain, come down to the night of the 13th of August. You were at your house?—A. I was at home.

Q. Where was your home, Captain?—A. It was on the corner of Sixth and Washington streets, I think about nine blocks from the garrison wall.

Q. Did you hear the shooting?—A. Oh, yes; very distinctly. I was in my library reading. I got up and went to the front of the house and lighted a couple of gaslights there to see if I could see where it was, but I was unable to see anything. At first I thought the shots were some Mexican procession, possibly, passing. That is about the only shooting we ever have there.

Q. What is the character of that shooting?—A. Well, they carry with them fireworks that they make, that they call cuetas—a sort of imitation of Chinese firecrackers—and when they have a procession

at night—they have a great many of them, frequently celebrating saints' days——

Q. A great many saints' days?—A. Yes, sir; quite a number; and quite a number of nonsaints' days. They have anniversaries there. They celebrate the birthday of Diaz and the battle of Pueblo, at which he made his first success, and all that sort of thing. The societies turn out, and they fire these cuetas.

Q. You did not go out of your house?—A. No; I did not go out at all.

Q. And you knew nothing as to who were charged with doing the shooting up until the next morning?—A. No; nothing at all. I did not know anything about it.

Q. What time did you get downtown?—A. I got down to the bank every morning at 9 o'clock. I was probably down about half past 8.

Q. Now, you said you at first thought there might be a procession, and the firing of these cuetas. Did you afterwards discover that they were high-power guns?—A. I came to that conclusion before I went to bed. I did not know what to make of it. I had really arrived at no conclusion to explain the firing—what it was or could have been. I did not for a moment think it possible for United States troops to be in it.

Q. Why?—A. Simply because I had been accustomed to regard them as men under discipline and under officers who would take care of them and prevent that sort of thing.

Q. When you went down on the morning of the 14th what was the universal statement of the parties whom you would meet as to who had done the shooting up of the town of Brownsville?—A. Oh, there was no doubt then, and there is no doubt now, as to who did the shooting—that it was done by the negroes of one or more of the companies of Penrose's command. Everybody said so; everybody knew it. There was no other reason. Nobody else was in the slightest degree interested in it. Any other proposition is extremely absurd—and worse than absurd.

Q. That shooting up of the town, of course, created rather intense excitement on the 14th, did it not?—A. Oh, a good deal—a great deal; but it was not evidenced by anything except the gathering of the people on the streets, a great many of them armed, some of the newcomers demanding to go down to Fort Brown and clean them out, those who never saw a gun fired in anger, perhaps, except in a street row. They were very valiant, and would have done a whole lot of things. One man told me he could take 50 men and go and clean out the whole negro outfit. That man had never been a soldier.

Q. I beg your pardon, I did not understand your last statement.—A. He had never been a soldier. He was from Mississippi, by the way.

Q. Well, now, this feeling of indignation against the shooting up of the town, you shared in that feeling, did you, Captain?—A. Very much; very greatly. I felt it very strongly, perhaps more so from my relations with the Army from the time I left it.

Q. What made you feel it more strongly because of your relations with the Army?—A. Because I felt it was a disgrace to the United States Army that had been perpetrated by these men. About eight or ten days before that—I think they were in Brownsville only

ten or twelve or fourteen days when this occurred—I had mentioned to several people that I had never seen either negro or white troops appear on the street in the condition that those fellows did. You would see a group of four or five soldiers come out of the garrison, come up the street, one of them with shoes, and another with leggings, one with a coat, and another with a shirt, and another fellow with his suspenders outside his shirt, conditions that I never knew to exist before in any troops, more particularly negro troops, who are generally neat and clean, and thoroughly well put up.

Q. Then from what you saw of their actions, it led you to believe that there was very lax discipline?—A. I should say that there was no discipline, from what I could see, from the attitude of the men. I have seen a man pass up the street, and an officer pass him, and he fail to salute him. That sort of thing is almost incomprehensible to me.

Q. That is, from the soldier's standpoint?—A. Yes, sir; from the soldier's standpoint.

Q. Now, on the morning of the 14th, or the afternoon, what was done, if anything, as to looking into this matter?—A. The mayor called a meeting of citizens by sending around policemen with a notice to meet at the Federal court building to take some action in the matter. I think that nearly all the respectable citizens of Brownsville were at that meeting. There were in the room at one time probably not less than 500 people.

Q. Yes.—A. After a discussion, some of it absurd and ridiculous, like the proposition of this fellow that wanted to go down there with 50 men and clean them out—

Q. Hotheaded?—A. Yes, sir; entirely impracticable; a committee was appointed.

Q. That sort of thing was not unnatural?—A. No, sir; especially considering that many of these men were from the interior or cotton States, where they have been accustomed to negroes committing all sorts of outrages, and where they are accustomed to regarding them as fit for that and nothing else. But we got them quieted down, and the committee was appointed. I was appointed chairman. There were at least six, I think, appointed, and I was requested by the meeting to fill the number up to any number I saw fit. I appointed 14 then.

Q. In all?—A. At that time. Afterwards I appointed two or three subcommittees to go around and look at the houses that had been shot up, so as to be able to report, and so forth. Now, I put on that main committee, among others, Henry M. Field, who was a relation of the Field family—of Mr. Justice Field and Cyrus Field, and others—chiefly because he was the senior vice-commander of my Grand Army post. I put on the quartermaster of the post, who was an old soldier also. Those men, both of them, had served with negro troops.

Q. Did you say they had served with negro troops?—A. Yes, sir; both of them had. Field was a first lieutenant in, I think, the Thirty-sixth. I have forgotten what regiment it was, the Thirty-something-or-other. I put a Mr. Dennett on there, who is the son of a colonel who died at Brownsville, commanding a negro regiment, and I selected the men, who were mostly northern men, who had no special

animus against negroes as such. I put on two or three lawyers, and I think two doctors. One of the doctors was an ex officio member of the committee, that is the mayor, and his brother was made one of them. He was another doctor. That was the material out of which I selected the committee. We resolved, before leaving the room, that we would come together in a body and interview Major Penrose, and see if we could not get some cooperation from him in finding out the names of the men, the actual men who did the shooting.

Q. Go on, Captain, and state the result of that interview.—A. We went down in a body and saw Major Penrose, and at first he said, "It can not be." He said, "I have got the best battalion in my regiment. I know my men. They could not be guilty of such an outrage." I said, "Well, who did the firing?" He said, "Well, I think it was an attack on the barracks from the town." I said, "Yes? Have you examined your barracks and buildings? They run right along here, and nothing could be shot from the town without hitting them. They are rather large buildings. Have you examined them to see if there are any bullet marks on them?" He said, "No; I have not examined them myself, but I have had them examined, and there are no bullet marks. There was a window reported to me as being broken, yesterday, but it looks to have been broken by a brick." About that time Doctor Combe, the mayor, threw down on the table a number of cartridges, and he said, "What do you think of those? I picked those up on the street." Major Penrose looked at them, apparently very sorrowful. The man was in a state of intense excitement, so much so that I really believed at a number of times that he would break down. He said, "Well, that looks like it. I do not understand it. My men are good men." He said that several times, "I can not understand it, but this looks like it. I am afraid it is so. I will do everything, gentlemen, that I can to ferret out the men, to find out who they are. I would give my right arm if this had not occurred."

Q. Did you say there to Major Penrose at that time, in substance, "Your men did the shooting, and you can not deny it?"—A. Oh, yes. I said, "It is absurd to talk about anybody else having done it. It is nonsense, Major. Your men did it. There is no question about it. There was no one else who had any interest in doing any shooting in that way." He said, "I confess it looks like it." I do not think that he said he believed it, but he did tell me afterwards that he believed it.

Q. When was that?—A. That was afterwards. We had three meetings of the committee afterwards, not full meetings, but myself and the district attorney and County Judge Bartlett went down to interview him, with this view: We had an idea that he could get his noncommissioned officers together, and by talking to them properly endeavor to get them interested so that they would find out, if they did not already know, who the actual men were, and turn them over. At that time we believed we could do it; but, of course, after a day or two we saw that it was no use at all; we could find out nothing. Major Penrose said to me, "Here is the command. Do what you please with it. Examine any man in it, and every man in it." I said, "There would be no use in doing that, Major. If you can not find out, through your noncommissioned officers, who committed this outrage, there is no use in our touching it." We could not recognize

the men. They had been there only a few days, and our people did not know them, and it was nonsense to talk about identification. After two or three interviews the committee did not go to him any more. Shortly after that a man by the name of McDonald came down there.

Q. Before leaving that, you say one of those times he did admit that he believed they shot up the town?—A. Oh, yes. We talked of it as though we had no doubt about it at all. After he stated at the first meeting that he did not believe that his soldiers did it, or could do it, and insisted that it was the best battalion in the regiment, and all that, when the cartridges were produced, and the statements of all these people who were there were laid before him, he said: "I must admit that it looks like it must be. I would give my right arm if it had not occurred."

Senator BULKELEY. I think Major Penrose so testified.

Senator WARNER. Yes; he did.

Senator FRAZIER. He changed his mind, he said.

A. (Continuing.) From that time until Major Penrose went away—and I saw him two or three times—there was no discussion as to who did it. There was no doubt about it.

By Senator FRAZIER:

Q. The question was, what individuals did it?—A. Yes; what measures could be taken to find out the individual men in the command who did it.

By Senator WARNER:

Q. But no question was between you but what it was the command, but only who were the particular men of the command?—A. Not the slightest question. That was the only point; yes, sir.

Q. I interrupted you, Captain, when you started, a few moments ago, to speak about McDonald?—A. Yes. A man by the name of McDonald, of the State Rangers, came down there, with a battery of pistols hung all around him, and he was going into the post to take these men out, and I said, "Mr. McDonald, you may know a whole lot about cornfield negroes, but you do not know anything about those soldiers, and your methods will not do us any good, and you will create trouble here, and possibly may cause some loss of life." I afterwards saw Judge Welch in McDonald's presence, and I then said "Mr. McDonald, if I were in Judge Welch's place, I would put you in jail, simply as a disturber of the peace." Well, he said that he was a State officer, and that he had the authority of the governor. I said, "I don't care about the authority of the governor; you are making trouble here in a matter that you do not understand at all;" and I never saw the fellow afterwards, or spoke to him again. Oh, there is no question about it, if that man had been allowed to do what he proposed to, we would have had a conflict there between the people of the town and the post in which the people of the town would have been destroyed; because a dozen of those men, with their rifles, would have been equal to all the people that we had there.

Q. Your committee went on and investigated. You appointed subcommittees to go and look at the buildings that were shot into and to get all the facts?—A. Yes, sir; we got all the facts. Somebody suggested that we take testimony under oath. I said "We are

not a judicial body, and we can not do anything else but find out the parties and report them."

Q. You made an examination?—A. Yes; we just called the people up one after another and asked them, "State what you know about this attack of the negroes on the town."

Q. Not being a judicial body, you did not put them under oath?—A. No, sir. There was no question in the minds of the witnesses or the committee or anybody else but what the negroes did the shooting. Of course there is no question in my mind or anybody else's that I ever heard speaking of it. There is not any doubt. It seems too absurd for any intelligent man.

Senator FORAKER. I will ask the stenographer to read that answer. The stenographer read, as follows:

Of course there is no question in my mind or anybody else's that I ever heard speaking of it. There is not any doubt. It seems too absurd for any intelligent man.

Senator FORAKER. Yes. That is all.

The WITNESS. Yes. I should say any intelligent man of Brownsville. People who get ex parte statements may come to any sort of conclusion; but we who were there know what did happen, and how it happened, and there is no doubt, and we never had any doubt.

By Senator WARNER:

Q. And you think, having those facts, it would be impossible to come to any other conclusion?—A. Yes, sir.

Q. Without going into that, it appears that you sent a number of telegrams, which are in the record, advising the removal of the troops, did you not?—A. Yes, sir; I think the first telegram that was sent was one to the two Senators, asking them to use their influence with the Secretary of War, who was absent with the President, and to ask him to remove the troops. I could see no cure for the condition of things existing in Brownsville then, except the removal of the troops. The women of the community were in such a state of tension that it is almost indescribable. They would not go out. What occurred the night before might occur again. We were all in a state of nervous excitement as to the situation of our women, and I asked, in the first telegram to the Senators, that they would appeal to the War Department or to the President, I do not remember which, now, to have these troops removed. Then I telegraphed to General McCaskey, whom I knew very well, and I do not know how many telegrams were sent; there were a whole lot.

Q. I understand from your statement that the people of Brownsville, especially the women, after the shooting up of the city were living in a state of dread—of terror?—A. Of terror, absolute terror. It was more than dread; they were terrorized by these people; and, of course, that was due more or less to the fact that the newspapers were from time to time full of accounts of outrages of negroes upon women, and here was a body of men, 200 of them, that could have at any time taken possession of the town. I have no doubt but that I could have taken half or one-third of those men and cleaned out Brownsville, as a military proposition. There is no question of that.

By Senator OVERMAN:

Q. Did some of those people leave the town, Captain?—A. I am a stockholder of the Brownsville Ferry Company, and I received reports from time to time of the number of passengers taken across the river, weekly and monthly. From the morning of the 14th there was a constant exodus of the people.

Q. That is, of the families?—A. The families, women and children, across to Matamoros.

Q. The cause of that was reported to you, was it?—A. There was no question asked. It was an unusual thing, and it followed this attack of the negroes. Women and children who became too much terrorized or were too timid to stay there, just went over to the other side.

Q. For Mexican protection?—A. For Mexican protection; yes, sir. That was the anomalous condition of things, that American citizens were flying from their own country to the protection of the Mexican Government.

By Senator BULKELEY:

Q. Was it largely Mexicans, do you know, Captain, who made this exit from the town, or were they white people?—A. I beg your pardon?

Q. Were they largely Mexican families that left the town?—A. Yes, sir; the majority of them were Mexicans, because the large majority of the population there is Mexican; but a great number were white people; American families. I know eight or ten families whose women went over there.

Q. Americans?—A. Yes, sir; chiefly those who had acquaintances or friends in Matamoros, where they could obtain shelter.

By Senator WARNER:

Q. Did you pick up any of the cartridges?—A. No, sir.

Q. You saw cartridges that had been picked up?—A. I saw those that had been picked up. They were brought into the committee room, I should say several dozen of them.

Q. Were you an expert in telling cartridges?—A. No, sir; I have seen nothing of the modern firearms. My firearm was loaded with a ramrod.

By Senator OVERMAN:

Q. And you bit the cartridge off with your teeth?—A. Bit it off with my teeth; yes, sir.

By Senator FORAKER:

Q. You originally lived in New York, Captain Kelly?—A. I lived some time in New York. I was born in Ireland.

Q. In Ireland?—A. Yes, sir.

Q. But came to this country and settled in New York, and went from New York into the Army?—A. I enlisted in New York.

Q. And where have you served?—A. I served with the Army of the Potomac all the time.

Q. In what regiment?—A. In the First New York Mounted Rifles, the Seventh Provisional New York Cavalry, which was organized as a mounted regiment.

Q. Until what time did you serve with that command?—A. Until 1864; the latter part of 1864—some time in 1864.

Q. Then it was you were appointed with this colored regiment?—A. As second lieutenant, of colored troops.

Q. As second lieutenant of colored troops?—A. Yes, sir.

Q. You were not a commissioned officer in the New York regiment?—A. No, sir; I was not.

Q. That is what I understood you to say; and at the conclusion of the war you were at Brownsville?—A. Yes, sir.

Q. You were mustered out there?—A. Yes, sir.

Q. And you just settled there?—A. Yes, sir.

Q. And went into business?—A. Went into business at once.

Q. And you have lived there?—A. Never have left it.

Q. So that you have seen this country grow and develop through all these forty years since?—A. Forty-two years, almost forty-two years.

Q. What was the population of Brownsville at the close of the war, when you first settled there?—A. Well, I should say there were about 5,000 people there, but a great many of them left. Two years after the war I do not think it was over 4,000.

Q. What caused it to diminish?—A. The Confederate soldiers who were mustered out there went gradually home, as they got means of transportation, and left.

Q. So that the population of Brownsville two years after the war was less than it was at the close of the war?—A. Yes, sir. At the close of the war there was a very large floating population there.

Q. But that all left?—A. Yes, sir; that all left.

Q. And when it had subsided—to use that word—to its normal condition—A. Yes.

Q. It had this population of about 4,000?—A. I should judge it had a population of about 4,000.

Q. What was the character of that population at that time?—A. It was mostly Mexican.

Q. Very few Americans lived there then?—A. There were exceedingly few. A majority of the Americans living there were discharged officers and soldiers who had been mustered out.

Q. At that time?—A. Yes, sir.

Q. When you had 4,000 population?—A. Yes, sir.

Q. How many were there of them?—A. Of those, 300 or perhaps 350, at most.

Q. Three hundred or 350 at most, Americans?—A. Yes, sir; I do not think more than that.

Q. Mostly officers with their families?—A. With their families, and discharged soldiers, a good many of them.

Q. Were there any native Texans there then?—A. There were a few, but very, very few.

Q. Very few?—A. Yes, sir.

Q. This was simply a frontier town?—A. A frontier town that had gradually grown up around the post.

Q. That had originally been Mexican territory?—A. Yes, sir.

Q. And populated practically only by Mexicans?—A. Yes, sir.

Q. Before the Mexican war?—A. Yes, sir.

Q. What is the population of Brownsville to-day?—A. Well, there

are a great many different estimates made about that, Senator. I do not think the population of Brownsville to-day is over 7,000, at most.

Q. Not over 7,000?—A. Between 7,000 and 7,500. But that is merely a guess. We have had no census of any kind.

Q. You had a census made in 1900?—A. Yes, sir; in 1900.

Q. Do you remember what that census showed your population to be?—A. Something about 6,000. But I judge from the public school. We have a very large public school there which was built during my administration of public school affairs, and in 1894 the scholastic attendance was 420. In 1906 the scholastic attendance had run up to 604 or 605. There was an increase of about 50 per cent in the scholastic attendance.

Q. So that you make that the basis of your estimate?—A. Yes, sir; therefore I make my estimate.

Q. Now, you have about 7,000?—A. Somewhere about that.

Q. What percentage of that 7,000 are Mexicans?—A. I should say, not less than 80 per cent; between 75 and 80 per cent.

Q. Eighty per cent, perhaps. Eighty per cent would be——

Senator WARNER. He says 75 or 80 per cent.

Senator FORAKER. Yes; but I am taking 80 per cent because it is easier to calculate.

By Senator FORAKER:

Q. Eighty per cent of the population would be Mexicans?—A. Yes, sir; quite that, I should say.

Q. Who are the white people there—all Americans, or divided between other nationalities?—A. No, sir; there is quite a large Spanish population there. Most of the business is in their hands.

Q. The business is in their hands? Most of the stores are conducted by Spaniards?—A. Yes, sir.

Q. Whom you do not include in your estimate of 75 or 80 per cent?—A. No.

Q. About how many Spaniards would there be there?—A. I should say, counting families, now——

Q. Yes.—A. (Continuing.) Of the average families there must be very close on 800 Spaniards there.

Q. That is, men, women, and children?—A. Yes, sir; men, women, and children.

Q. Then, what other population have you there besides Mexicans and Spaniards?—A. The balance is American; but a good deal of it is floating. People come in and go out.

Q. So that if you have only 7,000 population, according to these estimates you have given, there would be pretty nearly, or more than, 6,000 of them that would be Mexicans and Spaniards?—A. Yes, sir. I do not think there are more than 1,000 Americans.

Q. You do not think there are more than 1,000 Americans to-day?—A. Yes, sir.

Q. About how many do you think there are?—A. It would probably run from between 600 and 700 to 1,000.

Q. A thousand?—A. From six or seven hundred to 1,000.

Q. But your better judgment is that there are not more than 600 or 700?—A. I do not think there are. I do not think that if they were counted they would muster more than that.

Q. You spoke of having a Grand Army post there. When was that organized?—A. In 1894, I think.

Q. In 1894. You then had thirteen members?—A. Yes, sir.

Q. That is the most you ever had?—A. Yes, sir; that was our highest number.

Q. Now you have only five?—A. We have got five only.

Q. You took into that post at the time it was organized all who were eligible, I suppose?—A. All who were eligible.

Q. And you yourself are a member of Kansas Commandery of the Loyal Legion?—A. Yes, sir.

Q. Now let us come down to something else. You have been familiar with Brownsville all these years since the war?—A. Yes; since I have lived there.

Q. And you have been familiar with different commands that have been stationed at the fort?—A. All of them, I think.

Q. All of them?—A. Yes, sir; I have known all of them.

Q. And excepting for some altercations between the soldiers and the police, there has never been any trouble with those commands?—A. No, sir; none at all.

Q. And the population of Brownsville is a very quiet, peaceable, orderly population?—A. I do not know any one more so.

Q. You are right on the border, however, are you not?—A. Yes, sir.

Q. The Rio Grande is the dividing line?—A. Yes, sir; between the two nations.

Q. Is there not a good deal of smuggling going on there?—A. Not a good deal.

Q. Between Mexico and the United States?—A. Very little.

Q. Very little?—A. The smuggling is confined to the poorer people who evade the officers on either side for their daily wants. I will explain, and perhaps you will understand better. For many years the frontier along by Matamoros, from the mouth of the river, in fact up to where the river ceased to be the boundary, constituted what was known as a free zone.

Q. That is, from where?—A. From the mouth of the river—from the beginning of the boundary. It was subsequently run across to the Pacific, but for many years this free zone had this effect: The merchant in Matamoros could buy his goods in Manchester, or in Paris, or in any other European port, and bring them into Matamoros. The Mexican duty was not assessed against them, because it was a free zone, and they were allowed to come into Matamoros free of duty, as into a bonded warehouse.

Q. From any foreign country?—A. Yes, sir; from foreign countries and from all countries into Matamoros. When they were interned into Mexico, then they paid the duty.

Q. What is that?—A. When they were sent to the interior of Mexico then they paid the Mexican tariff, but while they remained in Matamoros they were subject to no duty. Therefore the holder of goods in Matamoros could sell them, our tariff being from 60 to 100 per cent on light goods, cotton cloth, and so forth, for much lower than the American importer could put them down in Brownsville for; and a merchant could send to Manchester and get an invoice of cotton cloth, for instance, and have it sent to Matamoros and have it brought across to Brownsville and sell it for 25 or 30 per cent lower than it could be sold for if it were imported and paid the duty.

Q. I should think that would tend to make great prosperity in Matamoros.—A. It did build Matamoros up. It was done for that purpose. At the close of the Mexican war the towns on the Mexican side of the river went into a state of decay.

Q. At what time?—A. At the close of the Mexican war. The towns on the American side all became prosperous. Then it occurred to the Mexican officials that a good plan to transfer the business back to where it had originally been—to the Matamoros side of the river—would be to relieve goods of all duties, and they did that.

Q. That was done as to simply some favored ports?—A. To that line. It was called Zona Libre—the “Free Zone” of Mexico.

Q. Was that done by an act of the Congress of Mexico?—A. It was an executive act first and was ratified by the Mexican Congress. Now, the result of that was that a man who wanted to evade our American laws could go to Matamoros and buy goods and smuggle them over the river at considerable profit.

Q. Goods imported to Matamoros could be brought over without the payment of tariff duties, and he would get them there for what they cost abroad, with the cost of carriage added?—A. Carriage and profit.

Q. And if he could get them into the United States, he could undersell his competitors?—A. Yes, sir. Now, that free zone was abolished a little over two years ago, I think—two years last January—and since then there has been no smuggling, because there is no object in it.

Q. But up to that time there was a great deal of it?—A. Yes, sir; of course; an immense amount of it.

Q. Then when you said a while ago that there was very little of it you meant that there was very little at this time?—A. For the last two years there has been very little, because there is no profit in it.

Q. Still in the last two years they have increased the number of customs officers there, have they not?—A. Well, they have. I do not think there is any necessity for it from the smuggling standpoint.

Q. They have increased the force, have they not?—A. Yes, sir; they have, considerably. But there is this state of affairs: There is one item—one article—that still can be smuggled profitably.

Q. What is that?—A. Mescal, the Mexican popular whisky.

Q. What is that?—A. It is a decoction from the maguey plant, and it contains a very large percentage of alcohol.

Q. Is it a popular drink?—A. Of the Mexicans.

Q. Is it popular on the American side?—A. No, sir; only among the Mexicans.

Q. The Americans do not drink it?—A. No, sir; not as a rule.

Q. Is that still smuggled?—A. Yes, sir; because our duties on alcohol are prohibitive.

Q. Is there any smuggling of cattle?—A. Oh, no.

Q. Nothing of that kind?—A. No, sir; we are importing cattle from Mexico.

Q. They pay the duties and do not try to smuggle them?—A. There is very little duty on them.

Q. But for some reason they still keep the customs officers there, and they have increased the number of them in the last two years?—A. Yes, sir.

Q. Very largely increased the number, have they not?—A. Not very largely. I think there are 10 or 12 officers at Brownsville now, where there used to be 6 or 7.

Q. Whose business it is to scout up and down the river?—A. There are, I suppose, always mounted inspectors riding up and down.

Q. And they are all armed?—A. Yes, sir.

Q. And they are catching somebody all the time?—A. Oh, no; at the last session of the United States district and circuit court for Brownsville, which was two weeks ago, I think there were only nine cases of smuggling on the docket.

Q. Was that an unusually small number?—A. No.

Q. As compared with past years?—A. No; I do not think it was any larger or smaller than for the last two years.

Q. You know Mr. Starck?—A. Yes, sir.

Q. He testified here a few days ago that he had made over 600 arrests during the time he has been a customs officer.—A. He has been on the force for nine or ten years.

Q. Nine years, I believe. During that whole period he had made 600 arrests.—A. Well, yes.

Q. What class of people are they who do this smuggling, and have been doing it in these years when it was carried on more?—A. It was the class of the people who used to be called "peons," the lower class—the people too lazy to work, and who could make a living at that business.

Q. Shiftless?—A. Shiftless vagabonds.

Q. And they belonged to the criminal class?—A. No, sir; they do not regard it as criminal to smuggle.

Q. They regard it as a patriotic duty?—A. About that; pretty much a duty. It does not follow that a smuggler is a criminal.

Q. He regards that as a patriotic privilege that he has a right to maintain even by fighting for it, if an officer attempts to arrest him?—A. When he goes into the smuggling business he knows what risks he takes, of course.

Q. And good, peaceful, law-abiding citizens engage in that business?—A. No, sir; good, peaceful, and law-abiding citizens do not engage in any violation of the law, anywhere.

Q. No. Men who are engaged in smuggling it is well enough to just look out for?—A. Well, no. What I mean to say is that the fact that a man engages in smuggling does not make him a dangerous character, or lawless in other respects.

Q. He may be a good citizen and a good man in other respects?—A. That is putting it too broadly. I doubt very much whether a man of that class is ever a good citizen.

Q. Are there many of these smugglers living in Brownsville?—A. Oh, no, no.

Q. How many of them?—A. I do not know, but there is not enough of it done to support more than a dozen of them.

Q. There are some?—A. There are very few in Brownsville. Most of them live in Matamoros.

Q. They live over there, and when they commit an offense on our side they get back across the river?—A. Yes, sir.

Q. And there is a good deal of that going back and forth across

the river?—A. If a man commits any offense, he immediately runs to Matamoros.

Q. Matamoros is about what population?—A. Probably at present about six or seven thousand people; not over that.

Q. How large has it been?—A. When I went there first, in 1865 or 1866, the population of Matamoros was estimated by many people to be about 30,000. I never believed there were anything like that many there. But I will say this: When we came off of the Rio Grande with the fleet, General Steele's command, there were 137 vessels of various kinds anchored off the mouth of the Rio Grande.

Q. Carrying goods to Matamoros?—A. Yes, sir.

Q. How far is it from the mouth of the Rio Grande up to Matamoros?—A. By road it is 23 miles.

Q. By river how far is it?—A. About 60 miles. The river is very tortuous.

Q. And is it filled with these bancos down pretty near to the mouth?—A. No; there are not over 12 bancos between Matamoros and the mouth.

Q. How deep is the river at Matamoros?—A. That varies. I ran and owned steamboats there for many years, and our deepest boats could take up 5 feet to Brownsville.

Q. And the river was navigable for boats of 5 feet all the way up to Brownsville?—A. Most of the time.

Q. To Matamoros?—A. Yes, sir.

Q. How wide is the river at Brownsville?—A. At its ordinary stage of low water, and it is at low water more than two-thirds of the year, it is not over 180 yards across.

Q. One hundred and eighty yards?—A. When it is up 15 feet, which is about high water, it is probably 500 or 550 yards.

Q. How high above the river at low-water mark does the reservation stand?—A. Sixteen feet.

Q. Does the river ever overflow the reservation?—A. Oh, no; it never has. There is a point below, which is on the reservation, to be sure, where it overflows, where the river broke in and overflowed a piece of it; but not any part of the reservation occupied by the troops.

By Senator BULKELEY:

Q. Does it cover what is marked "Dry lagoon" on the map at high water?—A. No, sir; the water has never, of late years, got in there. That part of it is not a dry lagoon, but there is water in this other bend of it [indicating].

Q. The river bends away around?—A. Yes, sir; it comes around there again [indicating]. There is a place near the old artillery barracks where it has overflowed; not so much overflowing, but by erosion it has cut out until it cut away at the artillery barracks and dropped the officers' quarters into the river.

By Senator FORAKER:

Q. Before I get away from the subject of population—you have a very small negro population there?—A. Very small.

Q. About how many families did I understand you to say you had?—A. I do not think there are more than six or seven.

Q. Can you tell me the names of them?—A. No. I know one man, Jules Richard. His name is a French name. In English it is Julius Richards.

Q. He is a French negro?—A. He came from New Orleans.

Q. He is not an American negro? He never was a slave, was he?—
A. Yes; I expect he was.

Q. Is he an old man?—A. Oh, very.

Q. What does he do?—A. He is living around Brownsville, being supported, principally, by charity.

Q. By charity?—A. Yes, sir.

Q. Can you give me the names of any others?—A. No; I do not remember.

Q. Is there a family there by the name of Grant?—A. I never heard of them.

Q. You never heard of them. Is there a family there by the name of Furness?—A. Furness?

Q. Yes; George Furness. What does he do?—A. I think he is a farmer, has a little piece of land out of town.

Q. Does he live in the town?—A. I could not tell you.

Q. He is a man of family?—A. Yes, sir.

Q. And a man of good standing as a colored man, is he?—A. I think so. I do not know anything to the contrary.

Q. He pays his debts and attends to his own business?—A. Oh, yes.

Q. Can you give me the name of any other man there?—A. We have one man there, George Watson. He is an old soldier. He was a sergeant-major in the Thirty-ninth Colored Troops.

Q. What kind of a man is he?—A. He is a first-class man. There is not a better man in the town.

Q. Where does he live?—A. He is employed in the custom-house. He has been employed as a porter; not a watchman, but I think probably he is the janitor of the custom-house building.

Q. Can you tell me of any others? You have named three.—A. I do not remember just at this moment. I know them all when I see them, and if they were up here I could probably call their names, but I see very little of them. I can not recall, now.

(The committee thereupon, at 1 o'clock p. m., took a recess until 2.15 o'clock p. m.)

AFTERNOON SESSION.

The committee met, pursuant to the taking of the recess, at 2.15 o'clock p. m.

Present: Senators Warren (chairman), Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF WILLIAM KELLY—Continued.

By Senator FORAKER:

Q. I understood you to say, in answer to a question put to you by Senator Warner, that there was no opposition on the part of the citizens of Brownsville to the colored troops being sent there at the time this battalion was sent there, in July of last year.—A. On the part of the people; none at all, that I know of.

Q. None that you knew of. He called your attention to a telegram sent by Senator Culberson, in which he spoke of having protested to the War Department against sending colored troops to any place in Texas, but "especially to Brownsville," as he put it. Do you know

what was in the mind of Senator Culberson that he should speak in that way?—A. I am sure I do not, unless it was that letter that he is alleged to have received from this man Wreford.

Q. And should you judge that what Wreford said to him in that letter was an indication of the public sentiment of Brownsville, generally?—A. Possibly, sir; because Mr. Wreford is an exceedingly intelligent fellow.

Q. Whatever the fact may be in that respect, it is not true, as I understand, that there was any opposition?—A. It is absolutely untrue, as I understand it.

Q. They were very glad to have them come, as I understand you?—A. The great majority of the shopkeepers were very glad to have them come, for the reason that the negro is the better customer.

Q. He spends more than the white troops?—A. Yes, sir.

Q. And therefore there was pleasure instead of displeasure when it was announced that this colored battalion was to succeed the white troops?—A. Among that class. I know it.

Q. You know Major Blocksom, do you not?—A. Very well. That is—I say very well—I met him down there.

Q. You saw him when he came there?—A. Yes, sir.

Q. And immediately after he came, did you not?—A. Yes, sir.

Q. He went to see you the very first day he arrived, did he not?—A. I am not certain of that.

Q. You were chairman of the citizens' committee, and you were engaged, when he arrived, in the work of investigating this affair?—A. Yes, sir; we were still investigating. He was at several of our sessions; I think possibly the first day he came there.

Q. He was present at some of your sessions?—A. Yes, sir.

Q. And you talked with him?—A. Yes, sir.

Q. He is a perfectly truthful, straightforward gentleman, is he not?—A. Unquestionably.

Q. Whatever impressions he had respecting conditions in Brownsville he must have gotten from talking with you and others like you?—A. Possibly. I do not know what impressions he had formed, but Major Blocksom was a stranger there.

Q. He was a what?—A. He was a stranger in Brownsville.

Q. He talked with you on this subject, as to whether there was opposition to the colored soldiers coming to Brownsville?—A. I do not know whether he did, specifically. I have no recollection of it.

Q. And he talked with others?—A. He saw numbers of the people and talked with them.

Q. On the 20th of August, 1906, he sent a telegram to The Military Secretary at Washington, in which he says:

People did not desire colored troops here.

Did he have any basis for any such statement as that, or was that a misrepresentation?—A. I do not think it was an intentional misrepresentation.

Q. I am not speaking about its being intentional.—A. I think it is quite likely he might have seen a number of people who said they did not desire colored troops there.

Q. So that if he did see some people who said that they did not desire them, you were perhaps mistaken in saying that there was no opposition at all?—A. No, sir; I was quite correct in saying that.

Q. You are correct, still?—A. Yes, sir; there is a difference between somebody not desiring to have colored troops there and a number of people formulating the desire not to have them there and to get them away. That is a very different thing.

Q. I am not talking about formulating a desire or a purpose not to have them or to get them away. I am only speaking about what the statement was, as to whether the people in Brownsville did in fact want them to come. As I understood you to say, they did prefer that they should come.—A. No, sir; I said that they preferred that they should come—that a certain class of our people preferred that they should come—the shopkeepers. I do not think anybody wanted them to come.

Q. You do not think anybody what?—A. Wanted them to come.

Q. Wanted them to come?—A. No.

Q. You do not think anybody wanted them to come?—A. No, sir.

Q. Is not it a fact that there was a good deal of outspoken objection to their coming?—A. Not among the old people of Brownsville. It was probably among the people from the southern cotton States that have come in there recently.

Q. There might have been?—A. There probably was.

Q. There probably was a good deal of outspoken objection to their coming?—A. Yes, sir.

Q. So that probably Mr. Wreford represented more than his individual notion of it?—A. Knowing the man as I do, I would say, hardly.

Q. What is the matter with Mr. Wreford?—A. It is difficult to explain. He is a man of no moral standing.

Q. I understood you to say that he had no property, and no more character than property?—A. Not a bit.

Q. Not a bit?—A. He is a man of bad moral character, who recognizes no law, and boasts of it, neither the moral law nor any other law that he can conveniently break.

Q. General McCaskey and others seem to have gotten the notion that there was a good deal of opposition to the colored troops coming there. They must have gotten it from these same people, I suppose?—A. Probably. There is this to be said about that: The colored troops are different people from those at the time I have spoken of before, when the Twenty-fourth Infantry and the Ninth and Tenth Cavalry were down there. The soldiers are absolutely a different class of men.

Q. Are they better or worse?—A. They are very much worse, as to the question of control.

Q. They are worse now than then?—A. Yes; I so believe.

Q. You told us there was no trouble at all when the Twenty-fourth Infantry was there.—A. None at all. I say that these men now are very much worse than the Twenty-fourth Infantry and the Ninth and Tenth Cavalry were at that time.

Q. The Twenty-fourth Infantry was the first regiment of colored soldiers that came there?—A. The first organized regiment of colored soldiers of the Regular Army to go there.

Q. That was in the day of General Sheridan, was it not?—A. He was in command of the Department of Texas then.

Q. He sent those colored soldiers there, did he not—the Twenty-fourth Infantry?—A. I am not sure about that—under whose orders

they came. He was commanding officer of the department at the time, anyway.

Q. Do you remember whether they did, in fact, have any trouble or not? It has been a good many years ago.—A. The Twenty-fourth Infantry?

Q. Yes.—A. None at all, that I remember. I do not know anything about it, and I knew all their officers well.

Q. You know of no trouble at all?—A. There was no trouble that I remember just now.

Q. Were not a lot of these colored soldiers of the Twenty-fourth Infantry mustered out and left there at Brownsville?—A. Yes; quite a number.

Q. And they are all gone, are they not?—A. They passed away; chiefly for the reason, as I said before, that they could not live on the wages of the Mexicans.

Q. Did you hear of any of them getting killed?—A. I have no recollection now.

Q. Do you remember an old gentleman living there by the name of John White, living now in Brownsville?—A. John Hoyt, perhaps that name is. There is a man living there by the name of John Hoyt.

Q. Do you remember his having any trouble with any of these soldiers and being arrested and tried for killing one of them?—A. No, no; not Hoyt. That must be some other man. I do not remember.

Q. Do you remember the soldiers who belonged to that regiment, who were discharged and left, being spoken of as "wild-cat niggers"?—A. I don't think I ever heard the expression before, Senator.

Q. You never heard that before?—A. No, sir.

Q. That shows how stories may get abroad and people hear them.—A. Yes. Now, as to most of the men who were discharged, I think of those who were discharged there very few went away, because they would naturally take their mileage back to the point of enlistment.

Q. Now, we are through with Mr. Wreford, I guess. Captain McDonald came there shortly after this shooting affray?—A. Yes, sir.

Q. And you used some expression about him this morning that I did not catch clearly—I can not hear distinctly this far away from you, because you drop your voice sometimes—to the effect, I think, that he came there with pistols strapped all over him?—A. Yes, sir; the first time I saw him I think he had two pistols and a knife on him.

Q. What kind of pistols were those?—A. I do not know.

Q. Were they the ordinary revolver?—A. Yes; the ordinary six-shooter, ostentatiously displayed, with a big belt.

Q. Regular shooting irons?—A. Yes; regular shooting irons.

Q. Buckled on outside, where everybody could see?—A. Yes, sir.

Q. What kind of a knife did he have?—A. I don't remember. I remember there was a knife in his belt, but I never saw it drawn, and I don't know what sort of a knife it was.

Q. Did he have a gun at the time you saw him?—A. No, sir; he did not have a gun at the time I saw him.

Q. He immediately got busy, did he?—A. He came to see me, and after a very few questions I think he dropped me and went off.

Q. You talked to him in such a way that he concluded that he would see other people?—A. Yes, sir; I think so.

Q. You had no faith in him?—A. I had no patience with a fellow that came there to ferret out a crime in that sort of a garb, a regular advertisement to everybody what he was.

Q. Did he have a uniform on?—A. No, sir.

By Senator FRAZIER:

Q. He was a State officer, was he?—A. Yes, sir.

Q. Of the rangers, the regular organization of the State?—A. Yes, sir.

Q. He was a captain of these rangers?—A. Of one company of them. A company of rangers consisted, I think, of about five men, with a captain. The other four fellows, I believe, were first lieutenants, or seconds, or something.

By Senator FORAKER:

Q. You do not think Captain McDonald helped much to ferret out the crime?—A. No; I do not think that the fellow made any discovery of any kind, although he alleged that he did.

Q. It was he who caused 12 of those soldiers to be put in arrest?—A. I believe it was, although I have always had some idea that Major Penrose might possibly have intended to put some of that same squad in arrest himself. But I have no knowledge of that.

Q. The warrants for those 12 men were sworn out at the instance of McDonald?—A. Either of McDonald or one of his men. I think he had two men with him.

Q. He had a good deal of trouble with Judge Welch or Judge Welch had trouble with him?—A. Judge Welch had some trouble with him. Judge Welch issued those bench warrants probably—in fact I might say I know it—on the affidavits of McDonald and one of his men, and delivered them to him.

Q. And Judge Welch finally recalled the bench warrants?—A. Yes, sir; he ordered him to deliver the bench warrants up to the sheriff of Cameron County.

Q. And he even ordered him to put McDonald in arrest if he did not?—A. I do not think he did. I think that was my suggestion.

Q. I say that on my recollection of what Major Blocksom finally reported.—A. He may; I suggested to him that the fellow should be put in jail.

Q. Passing that, and coming to some other matters, I have a note here to the effect that you testified, in answer to Senator Warner, that a Mrs. Dalzell told you of the Newton-Tate affair. Newton is the name of the negro soldier who was struck by Mr. Tate?—A. Yes.

Q. What was it she said as to where she was?—A. She was on the front stoop, a gallery of her house, just exactly opposite.

Q. What?—A. Just exactly opposite, on the opposite side of the street.

Q. Do you know where this was?—A. Yes, sir; do you mean where he struck the man?

Q. Yes; where was it?—A. I pass it several times a day going to my own house.

Q. Where was it?—A. It is opposite a lot which was then an open lot. It was opposite Elizabeth and Eighth streets.

Q. You live at Elizabeth and Ninth?—A. Sixth and Seventh.

Q. That is where you live?—A. Yes, sir.

Q. You live at Elizabeth and Sixth and Seventh?—A. No, sir; I live on Washington. I turn that corner going home.

Q. You live at Washington and Sixth and Seventh?—A. Yes, sir.

Q. Your bank is at the corner of Eleventh and Elizabeth streets?—A. Yes, sir.

Q. And when you go home you go down Elizabeth street?—A. To Seventh street.

Q. To Seventh street?—A. And turn at Seventh street.

Q. So that you pass this corner of Eighth and Elizabeth every day?—A. Yes, sir.

Q. This happened right at the corner?—A. Right on the corner.

Q. Which corner was it, the right hand?—A. Coming to Elizabeth, on the right hand.

Q. Where does Mrs. Dalzell live?—A. Immediately across. Her house occupies four lots on the opposite side of the street.

Q. Immediately or diagonally?—A. The house is a little diagonally.

Q. So that she was a little farther away than the width of the street?—A. Yes, sir; her house stands back.

Q. How far back does it stand?—A. About 30 feet.

Q. About 30 feet. So that she was at least 90 feet away?—A. Very nearly; less the width of the sidewalk.

Q. Ninety to 100 feet?—A. No, sir; 80 to 90 feet. The sidewalk is 10 feet wide.

Q. And they were on the sidewalk on the opposite side?—A. The streets are 60 feet wide, including the sidewalks.

By the CHAIRMAN:

Q. Forty feet in the clear?—A. Forty feet in the clear.

By Senator FORAKER:

Q. About 90 feet?—A. Yes, sir.

Q. At what hour was this?—A. I do not know; I never asked.

Q. Do you not know that it was 9 o'clock at night?—A. Oh, no.

Q. It has been so testified here.—A. I do not think that it was, because if it was 9 o'clock at night Mrs. Dalzell could not have seen.

Q. That is exactly what I was getting at. If it happened at 9 o'clock at night, it was too dark for her to have seen accurately.—

A. Yes, sir; but it did not happen at 9 o'clock at night; it happened in the daytime, but at what hour I am not sure.

Q. You do not know anything of it, except what she told you?—A. And what scores of other people have told me, and what Tate himself has told me.

Q. Tate has told us, so that we know what he has said. He told you substantially the same thing?—A. Substantially the same thing he testified to here, I judge.

Q. You were the chairman of the citizens' committee?—A. Yes, sir.

Q. And where did that committee meet?—A. It met in the Federal court room.

Q. Did it not hold some of its sessions in Mr. Wells's law office? Some one testified to it, is the reason I ask you that.—A. Afterwards several sessions were held there.

Q. Several witnesses were examined there?—A. Yes, sir.

Q. You had a stenographer who took down the testimony?—A. Yes, sir; we had one of Wells's stenographers.

Q. So that everyone that came in and testified was reported by a stenographer?—A. Yes, sir; everyone that we examined.

Q. Who did the examining?—A. I did, for the most part, and a great deal of it was done by Mr. Kibbe, who was the city attorney.

Q. Do you remember Herbert Elkins?—A. Yes, sir; I know him.

Q. You examined him, did you not? Asked him the questions?—A. Oh, yes; yes.

Q. And Mr. C. S. Canada, a newspaper man; a very self-possessed, demure sort of man?

Senator FRAZIER. A man from North Carolina?

Senator FORAKER. Originally.

A. I do not remember him.

Q. His name is spelled C-a-n-a-d-a. He lived at the Miller Hotel. He was the editor of "The Riverside."—A. Oh, yes; I knew him very well.

Q. Did you examine him?—A. We examined so many people there. They were all reported, I think.

Q. Allow me to ask you if you asked him this question:

Q. We are inquiring into the matter of last night with the view of ascertaining who the guilty parties are.

A. Yes.

Q. It would seem that this witness was examined the day after the shooting?—A. Yes; all of them, or at least a great many of them were examined the next morning.

Q. Then you continued:

We know they were negro soldiers.

A. Yes.

Q. (Reading:)

If there is anything that would throw any light on the subject, we would like to have it.

A. That is precisely about what I said to every witness.

Q. That is precisely what you said to every witness?—A. Yes, sir.

Q. You also put to Herbert Elkins the following question:

Q. You know the object of this meeting? We know that this outrage was committed by negro soldiers. We want any information that will lead to a discovery of whoever did it.

A. That was about it.

Q. That was it?—A. Yes, sir.

Q. You put about the same question to each one?—A. Yes.

Q. And as you have said this morning, there was no doubt in your mind, or in the minds of anybody else, that the negro soldiers had done this shooting?—A. Not the most remote.

Q. And it was perfectly absurd, you said, to have any other idea, did you not?—A. Yes, sir; entirely, to a man who knows Brownsville as I do.

Q. So that it was only the question of which of the soldiers it

was?—A. Precisely; the whole business was an endeavor to identify some of these soldiers.

Q. So I understand. And you had no thought in your mind except to find out which one of the soldiers it was?—A. Not the remotest.

Q. It never occurred to you to examine anybody else?—A. To examine anybody else? We examined everybody that knew anything about it.

Q. You examined everybody, but with that purpose in view. You had that opinion then, and have never changed that opinion?—A. I have never changed it, and have never seen the slightest reason to change it in any respect.

Q. Yes; you have no reason to; I understand that. Now, the troops, you saw a great deal of them?—A. No, sir; not a great deal. You must remember, Senator, that they were there only ten days.

Q. A little more than that. They came there on the 30th of July, and this shooting affray was on the 13th of August.—A. That would make fifteen days.

Q. Yes. You did not see much of them?—A. I saw them on the street frequently.

Q. Did you go up to the garrison during that time?—A. Only once.

Q. When was that?—A. I think it was on the Saturday evening before.

Q. Before the shooting affray?—A. Before the shooting; yes, sir.

Q. What was going on when you were there?—A. Nothing. My son was with me, and we went to call on the commanding officer. Major Penrose.

Q. Your son was with you?—A. Yes, sir.

Q. Was he at home at the time?—A. Yes, sir.

Q. Was he there at the time of the shooting affray?—A. No, sir; he left Monday morning.

Q. Just before it happened?—A. Just before it happened.

Q. You met Major Penrose?—A. Yes, sir; we met him on the walk.

Q. Did your son know him?—A. Yes, sir; I think he did. Yes, he did; because he introduced me.

Q. You had not met Major Penrose?—A. Not until then.

Q. That was the first you saw of Major Penrose?—A. That was the first I saw of him.

Q. That was on Saturday?—A. Yes, sir.

Q. That was pay day also, was it not?—A. I believe it was; I am not sure about that.

Q. Did you see the troops under arms at all during the time they were there?—A. No, sir.

Q. You did not see any parade?—A. There was no parade.

Q. What time was this?—A. In the afternoon, between 3 and 4 o'clock, I should judge.

Q. Did you see any of the soldiers around about the quarters, when you were there?—A. In passing into the fort you passed by the flank, between two of the barracks; that is, you passed in at the gate between B and D barracks.

Q. D barracks is below, towards the river?—A. Yes. You passed in there and there were always a number of the men loafing around

the quarters on either side. There were a number of them that day, I remember. I remember that my son said to me, "Penrose can not keep those fellows in much order." There were no two men dressed alike.

Q. They were not on duty of any kind?—A. Not any.

Q. But they were simply about the barracks?—A. Yes, sir; they were simply about the barracks.

Q. When you were there it was between drills, and between parades?—A. I do not think they have any parade on Saturday; I am not sure. There is an exemption, I think, on Saturday, from parades.

Q. They have inspection on Saturday, do they not?—A. I am not sure. I am not familiar with the customs.

Q. At any rate the troops were not under arms?—A. They were not under arms; and not attending to any special duty.

Q. And you saw no formation of them?—A. There was no formation there.

Q. Now, how many of them did you probably see?—A. I have no distinct recollection; just the usual number of men loafing around the steps and on the galleries.

Q. You saw nothing special to attract your attention to them?—A. Nothing, except what had attracted my attention frequently before, in town.

Q. Frequently before you had noticed that the men were slovenly, did you say?—A. Slouchy and slovenly.

Q. Where had you seen these men frequently before?—A. I beg your pardon.

Q. Where had you seen them?—A. Walking on the streets, and passing.

Q. You go to your place of business in the morning, the bank, do you not?—A. Yes.

Q. And, as a rule, you remain there all day long?—A. I remain there until about 1 o'clock.

Q. About 1?—A. Yes, sir.

Q. And then where do you generally go?—A. I go home to luncheon, and then go to my private office. I do not go back to the bank until 4 o'clock.

Q. Where is your private office?—A. Down on Levee street.

Q. Did you ever see any of the soldiers down there?—A. Yes; scores of them.

Q. What is it you do down around the levee? What is that office for?—A. That is my private office—land business and other things. That is on the main street coming up from the post, going towards the ferry.

Q. So that, independent of what your son stated to you, as you say, when you went with your son to call on Major Penrose, you had observed that the soldiers were slovenly?—A. Oh, yes; I had made that remark to several people.

Q. Yes; I have no doubt of it, from what you now say. Did you ever see any of them drunk?—A. No; I do not think I did.

Q. You did not see any disorder on the part of any of them?—

A. No disorder, further than that slouchiness.

Q. What is that?—A. I did not see any disorder among them.

Q. You did not see any of them misbehaving?—A. No, sir.

Q. The only thing you took exception to was that they were unsoldierly?—A. An unsoldierly looking lot of niggers.

Q. They did not salute their officers with the military air which you thought they should?—A. No.

Q. And some of them went without coats?—A. Yes; very frequently without coats.

Q. That was August?—A. Yes.

Q. And in Texas?—A. Yes, sir.

Q. And in the southerly part of Texas?—A. Yes, sir.

Q. It is pretty warm away down there, isn't it?—A. Yes.

Q. Were they the only people who were going without coats?—

A. No, sir; they were not the only people who were going without coats; there were lots of people who were going without coats; but a soldier is supposed to at least go on the street, when he moves out of his barracks, neatly and properly dressed; and when he does not it is the fault of his officers.

Q. And did you see anything at all, only this diversity of dress, as I will call it, that made you think they were slovenly?—A. I could tell. I think I know a soldier when I see one.

Q. Did you ever observe any disobedience on their part of any command or order?—A. I never saw them under the command of their officers at all that I know of.

Q. Did you get acquainted with their officers?—A. Very few of them.

Q. Did you get acquainted with Captain Lyon?—A. No.

Q. Or Captain Macklin?—A. Macklin I met the same evening that I went down to call on the commanding officer.

Q. You met him in the quarters of the commanding officer?—A. No, sir; at his quarters.

Q. You went up to his quarters?—A. Yes, sir.

Q. Did you get acquainted with Lieutenant Lawrason?—A. Yes, sir. We went up to Lieutenant Lawrason's quarters.

Q. Did not these seem to you to be very soldierly officers?—A. Lawrason looked all right; he seemed to be a soldierly officer.

Q. He looked all right?—A. Yes, sir.

Q. He is a citizen of Louisiana, is he not?—A. I do not know.

Q. You did not know about him in that respect?—A. No, sir.

Q. He is a graduate of West Point?—A. Yes.

Q. You thought that he was all right. And do you mean to have us infer, by saying that he looked all right, that the others did not impress you as being all right?—A. I must say that Major Penrose did not.

Q. He did not?—A. No, sir.

Q. In what way did he not?—A. Well, he came up the walk that evening without any collar on and no coat.

Q. Without a collar?—A. He had no collar; a fatigue shirt and no collar on.

Q. Well, that was a thing to take exception to, under the circumstances. And did you see anything else wrong with him?—A. No. That was not wrong. I am just simply remarking that the man was not neat and trim as an officer should be in the presence of his soldiers in the garrison.

Q. How else was he dressed?—A. He had on an ordinary and not very clean khaki uniform.

Q. An ordinary and not very clean khaki uniform. And how were the other officers dressed?—A. Those that I saw—I think Lawrason was possibly officer of the day—he had a sword on, and he was in fatigue uniform and looked all right. Grier had been quartermaster, and he told—

Q. Did you and your son talk about the negro soldiers while you were on that trip?—A. I think the casual remark was made by Will as we came up, "Those fellows do not look as though they were under good control."

Q. As if they were under control?

Senator WARNER. He said good control.

By Senator FORAKER:

Q. Under good control?—A. Yes, sir.

Q. Did you and he discuss whether there was any hostile feeling against them there in town?—A. No, sir; it never occurred to me.

Q. After the Tate affair there was feeling, was there not?—A. Yes; I think so.

Q. On the part of the community?—A. They resented that sort of thing. I do not think there was any great feeling on the part of the community.

Q. Were they mad at the soldier because Tate had knocked him down?—A. I don't think so. If there was any feeling at all, it was because the soldier had shoved through or between some white ladies there and knocked them off of the sidewalk.

Q. Did you understand that the soldier had denied that he did any such thing?—A. Oh, yes.

Q. But that had not any weight with you?—A. Not the slightest.

Q. Or with anybody else?—A. Or with anybody else, I think. I do not think there are many people who would take the word of a negro against that of a white man.

Q. You would not?—A. Not if I knew the facts at all.

Q. Not under any circumstances?—A. I don't know. Senator; that is putting it too broadly to say "not under any circumstances." Not under certain circumstances. I know negroes whose word I would take as readily as I would that of my own son.

Q. You would take the word of your son under any circumstances, would you not?—A. I have known the boy since his birth, and I never knew or heard of his telling a lie.

Q. Did you ever hear any talk about making a hostile demonstration against these soldiers?—A. None at all.

Q. Never?—A. Not before the 13th.

Q. Before that shooting?—A. No, sir.

Q. Did you see or hear of any guns being collected at any time or place?—A. In Brownsville?

Q. Yes.—A. No, sir.

Q. Before the shooting?—A. None at all.

Q. Did you or did you not go to some place where some guns had been collected and there try to persuade some people who had collected them and were there with them not to make any demonstration against these negroes?—A. That is wholly and utterly untrue.

Q. If there is any such story?—A. If there is any such story, It

is untrue that I saw any guns or I saw any people, or that I tried to get any people who were about to make any demonstration not to do so. Those things are wholly manufactured.

Q. You did not tell your son any such thing?—A. No, sir.

Q. Or anybody else?—A. Senator, I am regarded as a truthful man, and I am an older man than you are, and I am telling the truth.

Q. Yes. I do not know whether you are older than I am or not. I feel pretty old these days. But I want to get the truth from you, Captain.—A. You are getting it.

Q. I am sure you think so.—A. I know it.

Q. I am not disposed to question anything you say, but I do want to ask you such questions as I think I should.—A. Certainly.

Q. There is absolutely no truth in any such story as that, no matter who tells it?—A. Absolutely no truth, no matter who tells it, when or where.

By Senator FRAZIER:

Q. Did you ever hear of any such story as that before to-day?—A. Never before.

By Senator FORAKER:

Q. You never heard it until now?—A. Until you put that question just now.

Q. You have not heard it now, have you?—A. I heard that statement.

Q. I asked you if there was any truth in any such statement?—A. I never heard the statement before, and there is no truth whatever in it. I never saw any such arms; I never was asked to look at them; I never advised anybody as to the use of them. The whole thing is out of whole cloth.

Q. You have never testified in this case until now, have you, Captain?—A. No, sir.

Q. You never gave any testimony before Mr. Purdy, did you?—A. Yes; I did. Yes; that is true. I made an affidavit before Mr. Purdy. When you said "testify" I had in mind before a court.

Q. About how many men do you think were engaged in this shooting affray?—A. That is just a conclusion in my own mind. From all I heard, from all I knew of the circumstances as they were detailed to me by those people we examined, I should say there must have been somewhere between twenty and thirty men.

Q. Somewhere between twenty and thirty?—A. That is the conclusion that I came to.

Q. Do you think there would have been any trouble to have followed a party so large as that through the streets of Brownsville that night, and in that way learned what became of them?—A. I do not know. There would not be any difficulty in following them if anybody had made up his mind to do it, or thought anything about it.

Q. The testimony shows that there were nine or ten policemen on duty that night?—A. Oh, they were on duty all over town, I judge. I do not know where they were. My belief is that most of the Mexican police were in hiding; that is my personal belief.

Q. We understand that two of them were.—A. That is my belief.

Q. You know Mrs. Leahy?—A. Yes, sir.

Q. She keeps a hotel?—A. Yes, sir.

Q. We understand that she took care of two of them.—A. I have heard that she secreted two of them in her house; yes.

Q. But that would leave seven or eight out in the town who could have followed those men?—A. I do not think they were really following those people.

Q. Do you think there was any trouble, when twenty or thirty of these men were marching through the streets and shooting up the town, for somebody to have shot and killed some of them? If they had done that, we would have had no trouble at all in knowing whether they were soldiers or not.—A. There were no citizens out, as I understand it, until those soldiers went back in the barracks.

Q. Nearly every citizen in the town has a weapon of some kind?—A. I expect the majority have.

Q. Nearly everybody got up and got to the window in time to see them, according to the array of witnesses that we have here.—A. "Nearly everybody" is a peculiar way of putting it. The town is about a mile and a quarter long by a mile deep.

Q. Yes.—A. And this whole thing occurred in two or three squares.

Q. Yes.—A. Now, everybody could not see them; everybody was not at the windows.

Q. It would seem like almost everybody saw them from the number of witnesses brought here.

Senator WARNER. Wait a moment, Senator. I submit that that is not evidence, that everybody in Brownsville saw them from the number of witnesses here.

Senator FORAKER. I will change that if it will make the Senator feel any better.

Senator WARNER. It will not make me feel any better.

By Senator FORAKER:

Q. A number of people have come here and testified that they saw them.—A. Yes; fifteen or twenty, perhaps.

Q. A great many more than that, as I now recollect it. Does it seem to you strange that men should be allowed to go through the streets of a town, shooting right and left, trying to kill men, women, and children, and nobody in the town, where everybody practically was armed, would undertake to fire into them?—A. As I understand it, they were not in any large body.

Q. What?—A. They were not in any large body. Those twenty or thirty men who crossed that wall with arms scattered into two or three bodies, and according to the evidence I have before me some of them went across where Mr. Starck lived and shot into his house, I do not know why, and some of them went up to the Miller Hotel and shot the lieutenant of police and killed his horse, and all that sort of thing, and there was no large body of them anywhere; and the shooting was all over before anybody knew anything about it.

Q. We have been studying the testimony pretty closely and some of us have the impression that the men who shot into the Miller Hotel went up to Thirteenth street and fired into the Starck house.—A. I do not know anything about it.

Q. You did not see any of it?—A. No, sir.

Q. All you know is what has been told you?—A. By those witnesses we examined before the committee.

Q. Does it not seem, Captain, a little bit strange that eight or nine

policemen should be on duty and not one of them should have undertaken even to follow these men to see what became of them when the shooting was over?—A. I doubt very much about eight or nine men being present on duty. They were Mexicans. One man apparently did try to follow them and he was shot.

Q. That is Dominguez?—A. Yes, sir.

Q. He was around in that neighborhood, but he was trotting away from them, apparently, when he was shot. But we will assume that he was trying to follow them when he was shot.—A. He was trying to get near them when he was shot. But you must remember that this shooting was done in fifteen or twenty minutes, and the people of the town were mostly some distance away from there. This was the business part of the city.

Q. The shooting commenced at the garrison?—A. From the garrison wall, or, as I understand it, from the porch of the barracks.

Q. That is what you have been told. You did not see anything of it?—A. I did not see anything of it; no, sir.

Q. It commenced either inside or outside, but you do not know which, as a matter of fact, so far as your personal knowledge is concerned?—A. No; not so far as personal knowledge is concerned.

Q. And it extended up the alley to the Miller Hotel and then on to the Ruby Saloon?—A. Yes; that is, to the next block.

Q. That would give plenty of time for people to get up and get their guns and get down on the street, would it not?—A. No, sir; I think not. People do not get up and get their guns and get out on the street in, say, fifteen minutes.

Q. Not even when people are shooting up the town?—A. No; I did not get up.

Q. If you had been on the police force and had been out, armed, and had been in the neighborhood and this shooting had occurred, you would have gone to the place of danger?—A. I think it very likely that I should.

Q. And you would have found out who it was?—A. I don't know about finding out who it was.

Q. You would not have allowed them to disappear in the darkness and to be swallowed up, would you?—A. Oh, they simply went into the fort; just hopped over a wall that is not higher than this table.

Q. But you would have tried to follow them up, at least, would you not?—A. Possibly; possibly.

Senator FORAKER. Well, that is all.

By Senator FRAZIER:

Q. Just one question. Was there any feeling existing in Brownsville between the Mexican and the American people that was of a hostile nature at all?—A. Ill feeling? No, sir; not at all.

Q. Was there any feeling between the police and any particular class of citizenship of Brownsville that might have induced them to try to kill them?—A. None at all. Of course the police are always obnoxious to a certain number of the community, the fellows that get drunk and raise the deuce and get knocked in the head and taken to jail, and all that sort of thing.

Q. But there was no feeling that would have induced the police to have shot up the town or the people to have shot up the police?—A. No; that is absurd.

Q. Do you know of any feeling among the Mexicans in Matamoros that might have induced them to come across and shoot up the town?—A. None at all.

Q. Do you know of any Texas Rangers in the neighborhood that day that had malice against anybody in Brownsville that might have induced them to shoot up the town?—A. I think not; I do not think there were any Texas Rangers on that night; I do not think there were any in town. That is my guess about it; I am not sure about it, but I think that there were not any in town.

By Senator FORAKER:

Q. Did you testify before the grand jury, Captain?—A. No, sir.

Q. Your committee went to the bottom of this, so far as you could under the circumstances?—A. So far as we could.

Q. And without being able to identify anybody?—A. We could not find a witness who would undertake to identify any one man.

Q. You could not get a clue to any individual?—A. No, sir; I tried that with every man.

Q. Down to this day you have not been able to get a clue?—A. No, sir.

Q. There was a reward of \$500 offered from the governor for any evidence leading to the conviction of the guilty parties?—A. Yes, sir.

Q. But I understand that the city of Brownsville did not offer any reward, as was stated in the papers the other day?—A. No, sir; that was simply some young man talking about what he thought that they should do, or something of the kind. There was no reward offered in the city of Brownsville.

By the CHAIRMAN:

Q. Captain Kelly, has anyone given any information as to any other parties, or did anyone before your committee seem to suspect any other parties of having done this shooting up of the town?—A. No, sir; not even remotely. There was never a suggestion of a thought of such a thing.

Q. Either before your committee or since that time?—A. No, sir; not that I have ever heard of.

Q. So far as information as to the parties doing it is concerned, has anyone ever been mentioned except the soldiers?—A. No, sir.

By Senator FRAZIER:

Q. Did your committee make a report to the mayor or anyone else?—A. The report of the committee was handed to the mayor, I think. A full copy of it was also sent, I think, to Senator Culbertson, and I think also to Senator Bailey.

Q. That embraced all the evidence?—A. Yes, sir; all the stories that were stated before us. We didn't swear anybody, but we simply had the statements that were made before us.

Q. I understand; the statements which were made before you?—A. Yes, sir.

Q. Is there an expression of opinion in that report—I do not know whether it has been filed here or not—as to what the opinion of the committee was as to who did the shooting?

Senator WARNER. I do not know that there is any evidence that there was a report.

Senator FRAZIER. I asked him about that.

The WITNESS. There was a report made, with a synopsis of the testimony.

By Senator FORAKER:

Q. Was there any report as to the conclusion that the committee had reached as to the shooting?—A. No, sir; it was not put in that shape.

Q. What was the conclusion that the committee reached, from the evidence that they took, as to who did this shooting?—A. That the soldiers of at least two of the companies that were in the post did the shooting.

Q. What as to the individuals? You were unable to ascertain?—A. Utterly unable.

Q. Which of the two companies? I have not seen that report either; that is the reason that I ask.—A. My recollection is that it was B and C companies; I am not very sure. I am not sure of that, Senator.

Q. Where can we get that report?—A. Well, I know that that report was sent to Senator Culberson.

Q. That is, that you, as chairman, forwarded it, and—A. No, sir; it was forwarded by Mr. Kibbe, who acted as secretary of the committee.

Q. I wonder if Mr. Kibbe could furnish this committee with a copy of that report?—A. I think he could.

Q. Will you be kind enough to request him to send a copy of it to Senator Warren, the chairman?—A. I certainly will.

Q. For the use of the committee. If you will do that we will be very much obliged.—A. I will do that; yes, sir.

Q. Has it ever been printed, do you know?—A. No; I do not think it has, as a report. The local paper printed the proceedings of the committee from day to day there.

Q. Do you remember why you thought the guilty parties came out of companies C and B?—A. I am not very positive of that.

By the CHAIRMAN:

Q. Are you positive that they were the companies?—A. No, sir.

By Senator WARNER:

Q. Look at the map there. D barracks is the one nearest the river [indicating on map].—A. B and C. I should say, are probably the barracks that I am referring to.

By Senator FORAKER:

Q. B and C?—A. The two companies on the lower side of the gate were the two companies that were supposed to be in it, as I understand it.

Q. There is only one barracks on the lower side of that gate, between the gate and the river. Immediately on the other side of the gate is B barracks, and then comes C, and then the empty barracks. From which of those companies do you think it was that you concluded the guilty men had come, if you can tell?—A. I really can not tell now. Those letters have ceased to be very familiar to me; that is, to mean much to me. Looking again at the map, I should think it was D and B.

Q. Instead of, as you said a while ago, B and C?—A. Well, it might have been.

Q. You spoke of Mrs. Leahy a while ago. Did she testify before the citizens' committee?—A. I think not; no.

Q. She offered to, did she not?—A. I am not sure about that; she did not offer to me.

Q. You have no recollection about that?—A. No, sir; she did not testify.

Q. She did not testify, and you do not remember that she offered to?—A. She did not offer to me, I remember that very distinctly.

Q. Do you remember the committee discussing the matter and determining not to have her testify?—A. No, sir; I have no special recollection of that. I think we avoided, as far as possible, having any women brought before us at all.

Q. What is that?—A. I think we avoided having any women brought before us at all.

Q. Do you remember her case, or not?—A. Her case?

Q. I mean the committee taking any action as to whether she should be called as a witness?—A. I do not; no, sir.

Q. Do you remember whether it was discussed at all?—A. I have no recollection of it, if it was.

The CHAIRMAN. At this point I will ask that this telegram go into the record, which refers to something that was said by the mayor, Mr. Combe, and also by the witness now before us. This telegram reads as follows:

BROWNSVILLE, TEX., May 24, 1907.

FRANCIS E. WARREN.

Chairman, Washington, D. C.:

Parke R. Longworth, of Bloomington, Ill., now at Brownsville, wrote article in Brownsville Herald suggesting reward of ten thousand for apprehension of participants in Brownsville outlaws.

JESSE O. WHEELER.

The WITNESS. Wheeler is the editor and proprietor of a little paper there.

By Senator WARNER:

Q. But no such action was contemplated on the part of the citizens, offering a reward?—A. Nothing of the kind.

Q. This young man was simply writing an article for the paper?—A. Yes; I suppose so. I know the young man; I have seen him on the street. He seems to be a very respectable young man. I think he was acting in good faith in anything he did.

Senator WARNER. I suppose it should appear right here in the record that Mayor Combe was requested to get the name of this man, and I assume that this telegram was sent in response to this request.

The CHAIRMAN. It is a reply to a telegram that I sent at the suggestion of the committee, after hearing the testimony of Mayor Combe.

By Senator TALIAFERRO:

Q. Captain Kelly, I understood you to say that the citizens' committee rather suspected that these men came from two of the companies?—A. Yes, sir. The discussion turned mostly on that, I think chiefly because the witnesses described as being in the barracks next the gate—the upper barracks.

Q. Was there any evidence before you that would seem to exonerate the members of the other company?—A. No. Perhaps "exonerate" would hardly be the word. The belief of the committee was that the

men who made the raid on the town assembled in one of the barracks, and most likely in B barracks, the one nearest to the gate; but the idea of myself and other members of the committee was that the spot was arranged, and that the men assembled in that barracks, and that they came down the stairs of that barracks.

Q. So that it was entirely possible that members of all three companies might have been implicated in and directly connected with the raid?—A. I think so; there is no doubt in my mind about that.

By Senator FORAKER:

Q. Did you have any doubt about it at the time you made that report?—A. As its having been a plot? I think the report states that.

Q. I think you stated that the committee reached the conclusion that the guilty parties belonged to only two of the companies you mentioned, and now Senator Taliaferro asks you if there was anything to show that anybody from the other company might have been in it?—A. Oh, no; but the bulk of the evidence was that they came down the steps of that middle barracks.

Q. That they did what?—A. That they came down the steps. The noise of their coming down was heard by Rendall and somebody else, as coming down those stairs, and the conclusion that we reached was that a plot had been formed to raid the town just as they did, and the men that were selected to do it assembled in those barracks, and that they assembled in that barracks and came down those stairs.

Q. Captain, you are a man of experience, and have had a broad experience of human nature. Do you think it was possible for fifteen or twenty men to form a conspiracy to do that, and then go out and do it, and leave no clue to their identity?—A. My experience with negroes has not been very great of late years, but my experience is that they are the most secretive race of people on the face of the earth.

Q. The most secretive?—A. Yes, sir.

Q. So that you think they could do that?—A. That is a matter of comparison. I think they could keep it as well as anybody else, and probably better than any white people would.

Q. Do you not think it is a very difficult thing to make all the arrangements and have all the accessories necessary, and be able to do that, and leave no clue at all after nine months of diligent searching and investigation?—A. Senator, after hearing and seeing a great deal of this case, I have been informed, and I think the information is based upon reliable facts, that there exists in the four regiments of negro troops now in the Army of the United States an oath-bound society, by which they are bound to each other and together, to support each other in all cases, infractions of discipline, in crimes of any kind, and that the members of that society will not tell on each other or violate that oath under any circumstances.

Q. You have heard that?—A. Yes, sir.

Q. From whom did you hear that?—A. I have heard it from a great many people who claim to know more about it than I do.

Q. From anybody connected with these regiments, or anybody who had any personal knowledge about it?—A. Yes; the people who told me claimed to have—I would not go so far as to say that they had personal knowledge, but certainly personal belief, and reasons for it.

Q. You have a personal belief?—A. Yes, sir; I have that now.
 Senator TALIAFERRO. He said that they had reasons for it.

By Senator FORAKER:

Q. I will come to that in a minute. Would it change this belief of yours if these men were examined on that particular point, and all testified, in so far as they were asked the question, and quite a number of them were, that no such society existed, and that they did not belong to any such society, and never heard of any such society?—A. I would probably arrive at the conclusion that it was a part of the society's rules and regulations just to answer that way.

Q. In other words, you would not believe those men under oath?—A. Oh, I know some colored men that I would believe as soon as my own son, as I have said.

Senator WARNER. If you will excuse me, Senator Foraker, I think your question assumed that there was sworn evidence given by many witnesses that there was no such thing as a secret organization of this sort.

Senator FORAKER. I do not know how many testified about it, but I do know that was testified to by several witnesses.

Senator WARNER. I have no remembrance of it.

Senator FORAKER. Yes; I remember it; and I believe in one case it was brought out by the questions of Senator Taliaferro himself; and certainly by Senator Blackburn that identical question was asked, if they did not have an oath-bound organization to keep secret everything?

The WITNESS. Would it not naturally follow, if they had such an organization, that they would answer in just that way?

Senator FORAKER. Oh, well, if you believe men capable of such depravity that they can not, under oath, tell the truth——

By Senator OVERMAN:

Q. Having commanded colored soldiers in the past, and knowing their characteristics, I will ask you if that is not one of the characteristics of colored men, to cover up the offenses and crimes of their associates?—A. I do not think that that could have been stated so broadly formerly. I think that most of the officers of the colored troops at the close of the war would have resented any such statement as that in regard to their troops.

Q. That is, at the time of the war?—A. Yes, sir.

Q. That was the old-time nigger?—A. Yes, sir.

Q. How about the new negro?—A. The new negro is a new element. I do not know anything about him.

By Senator FORAKER:

Q. There were some men in this battalion who had served over twenty years.—A. I know that, sir.

Q. Without having even a black mark against them—men who had served in Cuba, and in the Philippines, and on the frontier in this country, and who, according to the testimony of their officers, had their confidence, implicitly, as truthful men. Would you not believe the statements of such men as those under oath?—A. In a case of this kind, I would not.

Q. You would not?—A. No, sir.

Q. You were of that opinion immediately after the firing, and have been so ever since?—A. I am so thoroughly convinced, Senator, that 90 per cent of all the men who were in the post at Fort Brown that night know the names of the men who carried their guns down in town and did that firing that I would not believe any of them.

Q. You would not believe them?—A. No, sir.

Q. I will not go into the matter of the guns with you. You did not examine them?—A. No, sir.

Q. You made an investigation, but you did not examine the guns to see in what condition they were?—A. No, sir.

Q. You did not examine the ammunition?—A. No, sir.

Q. You did not make any examination at all, except as your report shows?—A. Nothing at all, except what the report shows.

Q. I understand we are to be furnished with a copy of that report?—A. I made a note of it and put it in my pocket.

Q. How long has that been your opinion, Captain, that you would not believe any of these "modern negroes," to use your expression, under oath?—A. I said that I would not believe them. I would not in this particular case; under these facts. I would not believe any of them; because, knowing Fort Brown, its location, and what occurred there, I do not believe it is reasonably possible for any man to have been in the post—in among the soldiers in the barracks—and not know all about what happened.

Q. And still you have no personal knowledge of any of these men?—A. No, sir.

Q. You have never seen any of them?—A. No.

Q. You have never served with any of them?—A. No.

Q. Have you ever seen any of them put to the test of truthfulness?—A. No, sir.

Q. You do not know whether they have had any pride in their character as soldiers?—A. No, sir.

Q. Or in the good name of their battalion?—A. No, sir.

Q. And regiment?—A. No, sir; I know nothing about that.

Q. You know nothing about that?—A. No, sir.

Q. So that it would not make a particle of difference to you what they testified?—A. Practically it would make no difference to me what any of the members of those three companies said on that subject. It would not change my firm belief in the facts on that subject.

Q. Would you believe the officers?—A. I am sorry to say that some of the officers testified before you here in a manner that I knew was untrue. I would believe them, generally.

Q. Which ones?—A. There was a young man before you, a doctor by the name of Edger—

Q. I am speaking of the officers of the battalion.—A. Of the battalion?

Q. Yes.—A. Mr. Grier, I think, was stating what he knew was untrue in some of the things he said before you.

Q. Tell us what he said that was untrue.—A. I think when he swore that he heard bullets whistling through the grass, or dropping on the grass, he said what he knew was untrue.

Q. He testified that when he ran from his quarters across the parade grounds to the barracks he heard something striking the grass.

and that he thought it was a bullet, or a bullet out of a shotgun.—
A. A bullet out of a shotgun would not make much noise.

Q. Well, do you think that was untrue?—A. Yes, sir.

Q. Do you think he heard no such thing?—A. I think it was an afterthought.

Q. You think that was an afterthought. Now, was there anything else?—A. I have forgotten the scope of his testimony; I could not repeat it. It just occurred to me, at the time, that Grier was drawing the long bow.

Q. You do not think any bullets went over in that direction at all?—A. I do not; not a single one.

Q. Mayor Combe has testified that Policeman Padron told him that he fired his revolver, down on Washington street, in that direction.—A. Yes. As to Policeman Padron, I am very much about that as I am about the negroes.

Q. You do not believe the policemen, either?—A. No, sir.

Q. Well, I don't either.

Senator TALIAFERRO. You agree on one point, anyway.

By Senator FRAZIER:

Q. You do not mean to say that Padron's evidence given here as detailing the facts of the shooting of Dominguez was not true?—A. I do not know; I have not read that. I do not know what he testified to. But I mean the Mexican of that class is very liable to lie, if he thinks he might lie.

By Senator OVERMAN:

Q. Is that the character of Dominguez?—A. Very much.

By Senator FORAKER:

Q. They are all that way, are they not?—A. Yes, sir. There are some of them—

Q. But these policemen, you think, are a very shiftless and unreliable lot?—A. They are not the best of the Mexicans, by a long ways.

Q. The way they acted would seem to indicate that.—A. Yes; that is one thing. I believe that the men Mrs. Leahy hid in her house, or wherever she put them, were not the only ones that sought similar shelter somewhere.

Q. Then, whatever they would say you would take with a good deal of allowance?—A. Yes.

Q. And be very careful about it?—A. I would certainly consider whether it was in accordance with the other facts.

By Senator WARNER:

Q. You have known Dominguez a good while?—A. Yes, sir.

Q. The lieutenant of police?—A. Yes, sir.

Q. He is an honest and truthful man?—A. Yes; an honest and truthful man, and a very courageous man.

By Senator TALIAFERRO:

Q. Then you did not understand Senator Overman's question a while ago, when he asked you if Dominguez was the kind of a Mexican that you were describing?—A. No, no. Dominguez is not like that. I am not very certain about it, but I think he is not a Mexican. I think his father was a Greek.

By Senator WARNER:

Q. But he is a truthful man?—A. Yes, sir.

Q. Are you a member of the Masonic lodge?—A. Yes, sir; and past master.

Q. Dominguez has been tiler of that lodge for many years?—A. Since our old tiler died.

Q. Which of itself is an evidence of his good standing?—A. An evidence of his standing as a truthful, upright, honest man.

By Senator FORAKER:

Q. He may be mistaken as well as anybody else.—A. Oh, yes; anybody may be mistaken.

By Senator TALIAFERRO:

Q. He was not mistaken about having that arm shot off?—A. No, sir; there is no mistake about that. And I do not think he is a man that would lose his head. He is a very brave man; brave as his father was, and his father was a gallant soldier.

Q. You spoke of the negro race as being secretive?—A. Yes, sir.

Q. You meant, I presume, in their dealings with other races?—A. In their dealings with other races where any of their own race is involved.

Q. Is it not equally a fact that in dealing with each other they are very communicative?—A. Yes; I think so. In their dealings with each other, of course, I have very little means of judging.

By Senator FORAKER:

Q. They would tell each other all about things, but keep it from everybody else?—A. I suppose they would. I do not know about that.

Q. Do you think that men who would secretly organize a conspiracy to go out and shoot up a town would come back and tell it, when they were being investigated?—A. So far, Senator, they have not done it.

Q. Did you ever hear of anything of this kind being kept secret beyond the power of investigation to disclose the truth?—A. There are very few things of this kind have happened anywhere.

Q. You never heard of a case like this?—A. No; I did not.

Q. But you have heard of cases of conspiracy where a number of people were banded together for crime?—A. Yes, sir; a great many.

Q. And murder will out. That is true, is it not?—A. I think so; I do not despair of getting at the names of these fellows yet.

Q. Some day we will get at the truth of this?—A. I think so. I am pretty well satisfied that we will eventually get at the truth of it.

Q. I believe so, too. In that I agree with you.

By Senator FRAZIER:

Q. You mean some day we will find the individuals that did the shooting?—A. Precisely. Somebody will give them away I think.

By Senator BULKELEY:

Q. That is what this committee is here for. Captain, is there anything in connection with the surroundings of an army post that brings into its neighborhood a different class of population from that of the rest of the city?—A. Oh, yes; more particularly since the canteen was abolished.

Q. Is there anything to give the idea—I think we have had it before the court—that this section in the neighborhood of the garrison is known as the “tenderloin district?” Is that so?—A. Yes; that expression might be used. The negroes’ women and the white soldiers’ women congregate down there, and that part of the town is mostly given up to it. They have been in the habit of congregating in the neighborhood of the post there.

Q. In the neighborhood of most military posts?—A. Yes; along that garrison road all that class of people in town live there.

Q. There are one or two respectable people that do live there?—A. One or two live there; yes. Yturria lives on Washington street.

Q. Is there enough of that to make it objectionable for respectable people to live down there?—A. Respectable people generally avoid it.

By Senator OVERMAN:

Q. You do not mean to say that Yturria was one of that class?—A. Oh, no, sir; not at all.

By Senator LODGE:

Q. If this shooting was not done by the negroes, it must have been done by white men, was it not?—A. Yes, sir; taking Mexicans as white men.

Q. Yes; taking the Mexicans, too?—A. Brown men.

Q. But we are technically speaking; they are white. It must have been done by white men?—A. Why, of course.

Q. Then if the white men did it the same rule applies to it, does it not, as to the negroes, that none of them have disclosed it?—A. That proposition is so utterly at variance with the facts that it is not worth discussing. The proposition that white men went out in the night and shot up their own town, shot into the houses where there were women and children, in order to get rid of a few negroes, is not to be considered for a moment. There was no reason for getting rid of those negroes in the first place.

Q. I know; but I wanted to bring out that point, if it was not true that whoever did the shooting must have a great deal of secretiveness?—A. Certainly. Otherwise we would know all about it.

Senator LODGE. Yes; that is it.

By Senator BULKELEY:

Q. If I remember correctly, your citizens’ committee located, as you thought, this conspiracy amongst the men in the two barracks nearest the river?—A. Those were the two from the galleries of which it was said the men came down.

Q. Now, these disreputable houses which you allude to as being down towards the river, were they in the neighborhood of the barracks?—A. No; they are farther back.

Q. There is a street along there. They are not right on that road, there [indicating on map]?—A. That opening along the wall is not a street; it is a reservation, a portion of the military reservation.

Q. But are these places located along in the neighborhood of that street?—A. They are located two or three blocks behind it.

Q. What blocks are they on? Just point out on what streets.—A. I do not think there are any of these objectionable people who are located this side of Adams street, at all.

Q. They are out on Adams street?—A. Yes, sir.

Q. There are none down near the river, at all?—A. Oh, no; not at all.

Q. But are they out on the road?—A. There is another road which comes out from the garrison there, and a path that leads into that part of the town. They are out of the populated part of the town, in little shanties.

Q. Farther out than Allison's saloon?—A. I do not know where that is.

Q. Out by the county road?—A. That goes around the garrison fence and then turns to the right.

Q. Are there many of that class of people congregated there?—A. I should say not. Probably as great a number as that number of soldiers would support.

Q. Two hundred soldiers could run a number of houses, could they not?—A. I do not know about that.

Q. I do not understand you to say that in your opinion, or in the opinion of your committee, all the men who did the shooting came from one or two companies?—A. No, sir.

Q. But that the men who did the shooting descended from one or two of the barracks?—A. Most of the evidence was to that effect, that the men assembled in this middle barracks here, and they were heard coming down the stairs. The sleeping rooms are up above.

Q. They might have belonged to all of the companies?—A. Yes, sir; and probably did.

Senator BULKELEY. We will find that in the report, Captain.

A. I think so.

Senator PETTUS. I move that this witness be permanently excused. He has let us know that he has important business at West Point.

The CHAIRMAN. Unless there is some objection the witness will be excused.

TESTIMONY OF GENARO PADRON—Recalled.

GENARO PADRON, a witness previously sworn, was recalled.

(The testimony of this witness was taken through Walter H. Fergusson, interpreter.)

The CHAIRMAN. The interpreter will say to the witness that he is still under oath.

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. Did you or not, shortly before the negro soldiers came to Brownsville, supply yourself with a knife, which you carried as a weapon?—A. No, sir.

Q. Did you carry a knife at any time before they came there?—A. No, sir.

Q. Did you not on the evening of July 27, on the corner of the Merchants' National Bank, in a crowd of people, exhibit a knife which they took out of your hand and passed around among themselves and make comments upon it?—A. Yes, sir; I have it here [producing a knife from his pocket].

Q. You remember the circumstance?—A. I had the knife with me.

Q. You had this with you at that place?—A. I carry it always with me in my pocket.

Q. Is that the only knife you had at that time with you?—A. Yes, sir.

Q. The only one?—A. The only one.

Q. Where were you carrying this knife at that time?—A. In my pants pocket.

Q. Were you not carrying a knife in your sleeve?—A. No, sir.

Q. Did the people who were assembled there at the corner take this knife out of your hand and pass it around among themselves and look at it and make comments upon it?—A. I believe not.

Q. This is an old knife, is it not?—A. Yes, sir; you can see that it is.

Q. How long have you had this knife?—A. A long time.

Q. Did you not have a new dirk, and one much larger and more dangerous looking than this at that time?—A. No, sir.

Q. And did you not exhibit it and say you had got it for the purpose of using it on the negro soldiers?—A. No, sir.

Q. You never said anything of that kind?—A. No, sir.

Q. Do you remember the occasion to which I refer, when the people were assembled at that corner?—A. The only thing I carry or have ever carried is this knife.

Q. And you never exhibited that on the corner, nor anywhere?—A. I don't remember having shown it. That they may have seen this knife in my hand is possible.

Q. Do you remember the occasion to which I refer, July 27, the day before the soldiers arrived?—A. I do not remember. and, perhaps, I may not have been there that night. It is possible that I may not have been there that night.

Q. Can you leave this knife with us, and let us send it to you?—A. Yes, sir; there is nothing to prevent it.

Q. If you will leave it, we will send it to you?—A. Yes, sir; you may if you so wish.

Senator TALIAFERRO. Why not describe the knife in the record and let him take it.

Senator FORAKER. I think he can certainly get along without that knife for two or three days. We will send it to him. I want a witness whom I have subpoenaed to see that knife. I will give him a better one if we lose this.

TESTIMONY OF JAMES P. McDONNEL.

JAMES P. McDONNEL, being first duly sworn, testified as follows:

Senator FORAKER. I do not wish it understood that I am calling this witness as my own.

The CHAIRMAN. He is a committee witness.

Senator WARNER. They are all committee witnesses.

By Senator FORAKER:

Q. Please state your name in full.—A. James P. McDonnel.

Q. Where do you live?—A. I make my home at present at Brownsville, Tex.

Q. Where were you living on the night of the 13th of August, 1906, last year?—A. At Brownsville.

Q. At what point in Brownsville were you living?—A. I was living on Adams street between Fourteenth street and the garrison wall.

Q. We have a map here on the wall, Mr. McDonnell [referring to the map]. Here is the garrison gate, there is Elizabeth street; here is D barracks, here is B barracks, here is C barracks. Here is the alley between Washington street and Elizabeth street, there is Adams street where I am pointing, and this is the Garrison road, or Fifteenth street, and this red line is the wall of the reservation. This is the parade ground. You were living at Adams street and Fifteenth?—A. Yes, sir; on that irregular block there.

Q. And your house was at the corner to which I point?—A. About the third house from the corner, where you are pointing.

Q. And what house was next to you?—A. I don't know who the property belonged to. A man by the name of Tillman was occupying it.

Q. Tillman lived next to you. He is the proprietor of the Ruby Saloon, is he not?—A. Yes, sir.

Q. You fronted on Adams street?—A. Yes, sir.

Q. You were on this lower side, as the map hangs?—A. Yes, sir.

Q. Going out from the fort your house would be on your left?—A. Yes, sir.

Q. And Mr. Tillman occupied the house next to you?—A. Between me and the garrison wall, and another house on the corner.

Q. Who lived in the house on the corner?—A. I am not certain. I think it was a man named Frazer, who had charge of a laundry there. I think he occupied it at that time.

Q. You were there in your house on the night of the 13th?—A. Yes, sir.

Q. Did you hear this shooting affray—hear the firing?—A. Yes, sir.

Q. What was the first thing you heard?—A. The first thing I heard was some shots that night.

Q. Where did they seem to be fired?—A. They seemed to be down toward Elizabeth street, something in that direction, in that general direction.

Q. You were in the house. You had no window looking out this way, had you?—A. No; the window opened toward the garrison wall.

Q. You had a window towards the garrison wall, but there were two houses between you and the garrison wall, so you could not see the garrison from the windows?—A. Yes, sir.

Q. Could you see the garrison?—A. Partly, I think, if I am not mistaken. Looking out of my right-hand window in my room. I could see behind those houses, and I think I could see one of the barracks.

Q. You heard some shots?—A. Yes, sir.

Q. What did they sound like—rifle shots or pistol shots, those first ones?—A. I can't tell you anything about it. I just simply heard shots.

Q. How many did you hear?—A. I was asleep at the time. I heard some four, or five, or six shots.

Q. You think you were asleep?—A. I don't think anything about it. I was certainly asleep, not very soundly asleep.

Q. How long had you been asleep?—A. I could not say. I had not been asleep so very long.

Q. Had you retired?—A. No, sir; I had not retired for the night.

Q. I mean, were you in your bed?—A. I was lying down on the bed, but was not undressed.

Q. You were lying down on the bed, but were not undressed?—A. Not fully undressed.

Q. To what extent were you undressed?—A. I had my coat and shoes and hat off, was about all.

Q. You had your coat and shoes off?—A. Yes, sir.

Q. How did it happen that you lay down on the bed that evening instead of going to bed, and went to sleep there instead of going to bed regularly?—A. Well, I don't know just exactly how it happened. It occurs to me very often. I lie down on the side of the bed to read, and I dropped off to sleep while I was reading.

Q. Did you have an impression that some trouble might occur that night?—A. No, sir; I was not considering anything of that sort.

Q. You had been reading and just fell off to sleep?—A. Such was the case.

Q. Went to sleep without being fully undressed, that was all?—A. Yes, sir.

Q. What did you do when you heard these shots?—A. When I heard those shots I got up and put on my shoes and I don't know whether I put my hat on or not. Probably I did pick up my hat, and I walked from the residence——

Q. To Fifteenth street?—A. Yes, sir; and then proceeded on down Fifteenth street.

Q. To where?—A. To the alley, and about there I stopped. About where that letter "O" is.

Q. That is, to the corner of Fifteenth?—A. To the alley between Elizabeth street and Washington.

Q. You went to that corner. That was the corner nearest to Washington street?—A. Yes, sir.

Q. How long did it take you to get there?—A. I hardly could say. I would make an estimate of some two or three minutes.

Q. What did you see when you got there?—A. I was coming along down the alley with the expectation of coming on down to Elizabeth street; intended to come to Elizabeth street. When I got to about that point there was two shots fired.

Q. That point—that is, to the alley?—A. When I arrived at that point on my way down the garrison road, there were three shots fired inside the garrison wall.

Q. Inside of where?—A. Inside the garrison wall at my left, from inside the wall three shots were fired there.

Q. Three shots?—A. There were two shots fired about where the gate is, from just inside the gate, on that walk about there [indicating]. There were two shots there. I saw the flashes from two guns just inside the gate, about between those two last barracks.

Q. Inside of the gate, now, on this roadway?—A. Yes, sir.

Q. About where I am pointing?—A. A little farther back, about midway, as nearly as I could judge, somewhere about there, there were two shots fired from the ground. I saw the flashes of two guns.

and heard the reports, and at the same time, directly on my left, I saw a shot out of one of the barracks, which seemed like it was either shot off the upper gallery or out of the window.

Q. Which barracks was that?—A. Well, it does not look to me like that map—it does not look to me like it is correct. It seems to me that that third barracks ought to be farther down on the map.

Q. This one here?—A. No; the other one. Well, the shots might have been off of that marked "B." It was out of the second barracks, anyhow, from the river up.

Q. You saw a shot out of that?—A. Off from the gallery.

Q. Did you see more than one?—A. Only one.

Q. In which direction did that seem to be fired?—A. Well, from the flash it seemed to be in the general direction towards town.

Q. Did you see anybody out in the street in front of the wall where you were?—A. Not until just after that.

Q. Just after that?—A. Just after that shot was fired, then I turned my attention down the street, and I saw some men collecting right at the corner of Elizabeth and the garrison wall road—the garrison road, or Fifteenth street, as it is usually called there.

Q. About how many men did you see there?—A. It looked to me like there might have been some eighteen or twenty men.

Q. They were out in the street?—A. Yes, sir.

Q. And had guns?—A. Yes, sir.

Q. And uniforms?—A. Yes, sir.

Q. You could see all that distinctly?—A. Quite distinctly.

Q. They were right under the lamps, were they?—A. No; they were nearly up against the building.

Q. Right up against the Western Union Telegraph building?—A. Right up, nearly against it.

Q. Did you see anybody jump over the wall?—A. No, sir.

Q. You had the whole of that wall right in plain view, didn't you?—A. Well, yes; apparently. It was not always in my view, for when I would be looking down the street the wall would be at my left.

Q. As you stood here on this alley you could see the men down here by the gate, couldn't you, and you could see the wall between you, couldn't you, looking towards the light?—A. Yes, sir; I could see most of the wall.

Q. Did anybody jump over there or not?—A. I did not see anybody.

Q. You were in a situation to have seen anyone if they had?—A. At that particular time; yes, sir; I think so.

Q. What did you see next?—A. This party of men that I saw there collected at the corner of Elizabeth street and the garrison road, they divided. Part of them went around like they were going up Elizabeth street and the other part of them came up towards where I was standing.

Q. Came up to the mouth of the alley?—A. Came up to the mouth of the alley.

Q. Then what did you do?—A. When I saw them coming towards me, I stood up against the plank fence, right where you are pointing.

Q. That is the Yturria fence?—A. Yes, sir; I think so. I got up close to that and moved away from them as swiftly as I could, but did not make much progress until they came to the mouth of the alley,

and when they came to the mouth of the alley and turned up that alley, then I came down to the mouth of the alley again to look after them, to see where they were going.

Q. They came up and turned into the alley?—A. Yes, sir.

Q. Then you came back to the corner and watched them?—A. Yes, sir.

Q. Where were they when you got back?—A. They were very nearly through the alley.

By Senator OVERMAN:

Q. Who were those men?—A. They were men of dark color, in United States uniform—negroes, negroes, negroes.

By Senator FORAKER:

Q. Those were negro soldiers, and they just came out of the gate, they did not come over the wall?—A. I did not see them.

Q. You were in a situation where you would have seen them if they had jumped over the wall?—A. I think I would; yes, sir.

Q. Now, let me continue. When you said they were nearly through the alley, you meant they were nearly to Fourteenth street?—A. Nearly to Fourteenth street; yes, sir.

Q. What did you see them doing there?—A. I saw them shooting there.

Q. Whereabouts were they standing when they did the shooting?—A. Nearly at the mouth of the alley on Fourteenth street.

Q. But they were on the garrison side of Fourteenth street, were they not?—A. Yes, sir.

Q. And they were right opposite the Cowen house, were they not?—A. As nearly as I could tell from where I was at, they were exactly opposite.

Q. Shooting right into the Cowen house?—A. The flashes of the guns I saw pointed in that direction.

Q. How many guns did you see firing into the Cowen house?—A. I could not say, maybe some twelve or fifteen shots.

Q. Firing in rapid succession, were they?—A. Yes, sir.

Q. How many men seemed to be firing?—A. Well, I could hardly tell. I could not very well say how many.

Q. Give us an idea.—A. Well, there was some six or eight men shooting, whatever there was in the squad. I expect they nearly all had guns and were shooting.

Q. And you were only the distance from the corner down to where they stood, and that is only about 120 feet?—A. Yes, sir; I was only that distance.

Q. You could see them plainly?—A. I could see them as plainly as a man could on a moonless night.

Q. Now, Mr. McDonnell, you have testified two or three times in this case, haven't you?—A. Well, yes; I think I have given testimony four or five times; I don't remember exactly.

Q. You testified first before the citizens' committee, didn't you, a day or two after?—A. Yes, sir; I was called before the citizens' committee.

Q. Did you hear any talk at all on Monday, the 13th, the day of this shooting, in the town that indicated there was likely to be any trouble?—A. No, sir; I was busy that day. I was but very little

out in town, unless it was after 7 o'clock. I might have been up and down after 7 o'clock—between that and the time I came home.

Q. Let me read you your testimony as given before the citizens' committee. You remember giving it, don't you?—A. I remember I was before the citizens' committee, but I have seen the thing as it was taken down, and it is not correct.

Q. I will read it to you, and we will find out in what particular it is incorrect. Captain Kelly, who was just on the stand, was chairman of that committee, was he not?—A. I think so.

Q. He asked the questions, didn't he?—A. I am not sure who did.

Q. And they had a stenographer there who took down everything?—A. I could not say whether it was taken down or not.

Q. I will read you what you are reported as saying:

Q. We are here to get what information we can that will throw light on the circumstance.

That is correct, is it?—A. I think so.

Q. "A. I board on the little block next the garrison, about the middle. I knew there was bitter feeling in town." Is that correct?—A. Well, I knew there was some little feeling in town, but I don't know that I gave them words before the citizens' committee. I don't remember that I did. I may have done it. I will not deny that.

Q. You will not deny that you stated it just as I am reading?—A. No.

Q. "I knew there was bitter feeling in town and thought that if they caught any negro soldiers uptown they might do them up." Is that correct?—A. No; that is not correct.

Q. You did not say that?—A. I was not looking for anything of that sort at all.

Q. You did not make any such remark?—A. I did not.

Q. Do you know how they happened to get it down in the record if you did not make it?—A. Not unless they were very careless about taking the testimony down.

Q. Let me read further: "So I laid awake."—A. No, sir.

Q. That is not correct?—A. No, sir.

Q. "Never pulled off my shoes."—A. That is not correct.

Q. "When the first fire started, I jumped up."—A. Well, I got up; yes, sir, when the first shots were fired. That is correct.

Q. "There were from six to ten shots on Elizabeth street."—A. Did I not tell you I thought so?

Q. That is correct, is it?—A. I thought it was in the general direction of Elizabeth street.

Q. "Then they ceased. I went down the street to the next block, and down to the alley, and stopped on the corner." That is correct, isn't it?—A. I told you my reason for stopping on the corner.

Q. I am only trying to get at whether this is correct or not. "The shooting commenced again just inside the garrison wall. Then I saw some men assembled by the garrison wall near the telegraph office." That is correct, is it? That was on the outside?—A. Yes, sir; on the outside of the garrison wall.

Q. "There were about 20 men." Is that correct?—A. Correct.

Q. "I don't know where they came from."—A. Correct.

Q. "Did not see them scale the wall or come through the gate?" Is that correct?—A. Yes, sir.

Q. "I think they were in trousers and shirts." Is that correct?—A. Yes, sir.

Q. "I don't know whether they were negroes or white men, but they were United States soldiers."—A. No; about the negroes—I recognized them as being negroes.

Q. I am only finding out whether you said this.—A. You asked me the question, did you not?

Q. I asked you whether this is a correct report of what you said.—A. No, sir; not in that one particular.

Q. "They went into the alley where I first stopped (I had moved back) and commenced shooting. I was 30 or 40 steps from them. Five or six men went up that alley, and I could see their guns distinctly. I did not hear any roll call, but I went home soon after that and then came downtown."—A. That is correct.

Q. That is correct, except that you were not awake and you had pulled off your shoes?—A. I had pulled off my shoes and I was asleep, and also that I was expecting trouble in town, which I was not.

Q. You say you will not deny but that you may have said there was bitter feeling in town?—A. Oh, I heard some talk at various times in town about a few little things that had been stirred up between negro soldiers and some citizens. I had heard some had occurred.

Q. Was there not a great deal of talk in town that day on account of the Evans assault?—A. I don't recollect whether I even heard of that Evans affair that day, for sure. I don't recollect that I even heard of it that day.

Q. Now, you testified next before Mr. Purdy, didn't you?—A. Yes, sir.

Q. Now, I want to read your testimony before Mr. Purdy:

Q. Mr. McDonnel, where do you live?—A. I live two blocks above here [pointing], and half a block from the garrison wall, on Adams street.

Q. What is your business?—A. I am a carpenter and bullder by trade.

Q. And how long have you lived in Brownsville?—A. I suppose I have been here fifteen or sixteen months.

Q. Were you in Brownsville on the night of the 13th of August of this year?—A. Yes, sir.

Q. At your residence in this city?—A. Yes, sir.

Q. Were you aroused by the shooting on that night?—A. Yes, sir.

Q. Were you in your room at the time?—A. Yes, sir.

Q. About what time did you hear the first firing?—A. Well, I never paid any attention to the time. I can not be positive, but think it was about the hour of midnight. I don't remember looking at the clock.

Q. Now, will you go on and state what you saw and heard after you were aroused by this firing?—A. That night I came home a little late. I had just pulled off my shoes and coat and lay down on the side of the bed with my pants, socks, and shirt on reading a newspaper, and sort a dropped off to sleep and was aroused by the firing.

Q. In what direction did it appear to be?—A. I could not tell, but it appeared more as being a sort a uptown [pointing]. I could not tell which direction it was.

What did you mean by its being uptown?—A. Well, Elizabeth street is the main street in town. It is generally spoken of as uptown.

Q. You meant it was down towards Elizabeth street?—A. Yes, sir; the way you hang the map, down towards Elizabeth street.

Q. (Reading:)

When I heard the shots fired I was under the impression there was a row in town and that the police were having trouble with somebody. So I got up and slipped on my shoes and hat and came on downtown just as I was, and I came down to the street that divides the garrison wall from the city.

That is Fifteenth street?—A. Yes, sir.

Q. "Came down that street until I had proceeded a block and a half." That would be to the alley?—A. Yes, sir.

Q. (Reading:)

came down that street until I had proceeded a block and a half. Just about the time I got to the alley [pointing], I saw some shots fired from the inside of the garrison, and that checked me and I stopped.

Q. Firing from inside the garrison wall?—A. Yes, sir. One shot was from the gallery above and the other two were fired off the ground.

So you heard just three shots, didn't you?—A. Correct.

Q. Altogether.

Q. Could you tell what barracks that one shot came from—the one from the gallery?—A. I don't know just exactly how to number the barracks.

Q. Did it come from the second one from the river?—A. Yes, sir.

Q. And where were the two shots fired that were fired off the ground?—A. Rather between the first and second barracks.

Now, stopping there for a minute, when you got to the corner, as I understand you, of Fifteenth street and this Cowen alley here, where I point, you heard three shots from inside?—A. Yes, sir.

Q. You heard only three?—A. Well, I heard the shots and saw the flashes from the guns.

Q. Did they all seem to be from about the same place?—A. Two were from between those two barracks and one was either off the upper gallery or out of a window.

Q. Did they seem to be somewhere near together?—A. One shot was, and the other two were off the ground, as I tell you.

Q. Was that one shot fired from a location distant from where the other two were, or were they all practically from near the same spot?—A. The first two shots were fired right on the side of the driveway, or near the driveway.

Q. You located it about there [indicating]?—A. I saw the flashes of two guns and heard the reports.

Q. Did you notice what way the flashes seemed to go?—A. Well, it seemed to be in the general direction of up toward town.

Q. Seemed to be fired up toward town, as though they were firing toward Elizabeth street, or were they fired into the air?—A. They were not fired into the air.

Q. And the one you said you saw fired from the barracks—which barracks was that fired from?—A. The second barracks.

Q. That would be B barracks?—A. Yes, sir.

Q. About what place along the line of B barracks was that?—A. Somewhere near the middle of the barracks.

Q. Somewhere near the middle of the barracks you saw one shot fired?—A. Yes, sir.

Q. So that these shots were a distance from each other of 75 or 80 feet?—A. Well, yes; maybe more, maybe less. I don't know just the exact distance apart.

Q. And that fired from the upper barracks was in the direction of the town, also?—A. Of course I was not looking at the barracks. As

I remember, when it was fired I saw the flash out of the corner of my eye and turned my head to look. I was not looking directly at the barracks when the shot was fired.

Q. But you saw the flash out of the corner of your eye and looked around?—A. Yes, sir.

Q. But the flash is instantaneous, isn't it?—A. Yes, sir.

Q. And when you looked you could not tell exactly where it was?—

A. Of course I could not tell exactly.

Q. How high is that second gallery from the ground?—A. I can't say. I would say maybe 15 feet.

Q. Perhaps not more than that?—A. Well, I don't know, something in the neighborhood of 15 feet.

Q. Well, we will proceed:

Q. About opposite the gate on Elizabeth street?—A. Yes, sir.

Q. Before that you had heard the shooting while you were coming from your home?—A. No, sir; while I was in the house, about 12 o'clock, some shots were fired, four or five or six or seven. That aroused me, and there was no more shooting that I could hear until I saw those three shots, and that is what checked me. I stopped at the alley.

So that when you heard five or six shots, you jumped up, put on your coat and hat and your shoes, and rushed down the street and got as far as that corner before there was another shot fired?—A. I got up, put on my shoes, and picked up my hat.

Q. That is the way you recollect it?—A. Came down and never heard one more that I have any recollection of at all. It may be there were.

Q. Those three over in the barracks there?—A. Yes, sir.

Q. And you heard just three shots?—A. Yes, sir.

Q. Did you hear any voices?—A. When these parties came up from the corner of the street, from the corner of Elizabeth street towards where I was, there were some few words spoken among them, but they were spoken in a very low tone, and I could not distinguish a thing that was said.

Q. Could you hear any voices at all in connection with this firing over in the reservation?—A. No; I don't think I heard a single word over in the reservation at all. I don't remember to have heard a word spoken.

Q. Didn't you hear the guard calling out, "Guard No. 2?"—A. I did not, that I have any recollection of.

Q. You did not hear that?—A. I did not hear any calls or nothing. Everything was perfectly quiet, to the best of my recollection, there.

Q. Did you hear a garbage wagon?—A. No, sir; I have no recollection of hearing it.

Q. You know Tamayo, the scavenger?—A. No, sir; I do not.

Q. You do not know him?—A. No, sir; I do not know him.

Q. Didn't you hear a cart that night, just about the time of this first heavy firing, start from here in the rear of B barracks, about the point that my pointer is directed to, this corner at the end of B barracks, in the rear of the barracks next to the gate—didn't you hear that cart start and run off, with a great deal of noise?—A. No, sir; I have no recollection of hearing anything of the sort at all.

Q. You did not hear anything at all?—A. Nothing of that kind at all.

Q. If he was there you did not hear him?—A. I did not hear him.

Q. You did not hear anything about it? Nothing attracted your attention to that?—A. No, sir; there was nothing attracted my attention in that line at all.

Q. "Q. You may proceed and state what you then saw.—A. The next I saw was about 20 men. I saw something in the neighborhood of 20 men—not having counted them. I saw them assemble right at the foot of Elizabeth street, outside of the garrison wall." That is correct, is it?—A. Yes, sir.

Q. "I never saw them come through the gate or over the wall." That is correct?—A. Correct.

Q. (Reading:)

I recognized them instantly as being United States soldiers. They were in United States undress uniform, men in their shirt sleeves and trousers and hats on.

Q. What was the color of the uniform?—A. They had on these blue Chamberlayne shirts.

Q. And khaki pants?—A. Yes, sir.

Q. Did any of them have on the yellow khaki coats?—A. I don't think there were any that had on coats. If so, I did not notice them at the time.

Q. These men were at that time about how far away from you?—A. About half a block.

That is correct, is it?—A. Yes, sir.

Q. The lamps there at the gate were near to them, also?—A. There is lamps there, but if the lamps were burning, I have no recollection of noticing them at all.

Q. No recollection at all?—A. No recollection at all of noticing those lamps burning.

Q. Can you tell us how much the candlepower of those lamps is—how strong that light is?—A. Well, I have passed by there of nights and saw the lights burning, but I could not give you any idea.

Q. You never noticed them?—A. No; I could not tell you anything about that.

Q. Have you any recollection of seeing any lights that night? There was not any light up there, up the alley where you were?—A. No, sir; there was no light that I saw.

Q. From either the inside or the outside?—A. Neither inside nor out; I don't remember seeing any lights.

Q. Did it or not seem to be all quiet inside the barracks?—A. How was that?

Q. Was it all quiet inside the fort, in the barracks?—A. Apparently so to me; yes, sir.

Q. There were no lights in the barracks at all?—A. I don't remember seeing any lights.

Q. And you heard no noises in the barracks?—A. I did not at that time hear any noises.

Q. Did not hear any men coming down out of the barracks?—A. No noises of any sort inside at all that I remember of noticing.

Q. Now, did you hear any bugle call about that time?—A. I heard some bugle calls that night, one or two calls; but what time I heard them, I have no recollection of what time it was.

Q. Don't you remember hearing a bugle call immediately after the three shots were fired inside the reservation?—A. I could not say when them bugle calls were called at all.

Q. Might the first one have been immediately after that or about that time?—A. All I could say is that sometime about during the shooting I heard a bugle call.

Q. It was soon after the shooting got fairly started, was it not?—A. I can not say.

Q. Can not say?—A. No, sir; I can not say.

Q. Do you remember where bugle call was sounded that you heard?—A. Well, sir, all I can say is that it was somewhere inside the reservation.

Q. Was it not at the corner of the guardhouse?—A. I can not say.

Q. Now, I will read further—

Senator WARNER. Does this immediately follow what has just been read?

Senator FORAKER. No; I am going to skip over some things. There is more of it than I thought there was. I do not want to read too long. I now read from page 31:

Q. Now, go on and state, Mr. McDonnell, what happened after that.—A. I believe I left off where these men assemble. At the corner of the street [pointing] they divided into two bunches—

That was at Elizabeth street and Fifteenth?—A. Yes, sir.

Q. (Reading:)

Two squads—and one squad came around the building, around Elizabeth street—the telegraph station. I never saw any more of that squad.

A. That is correct.

Q. That is, those that went up Elizabeth street?—A. Them that went around the corner out of my sight.

Q. (Reading:)

The other squad came up the sidewalk toward where I was at the alley, and when they came up the alley I retreated up the street towards Washington street. I went up the street outside the garrison wall, next to a plank fence. I laid up close to the plank fence, as I did not want them to see me. When they got to the alley between Elizabeth street and Washington street they turned up the alley. The squad divided up, and when they turned up the alley—

A. How is that?

Q. That is what I was going to ask you as soon as I read another sentence.

And when they turned up the alley I came back to the mouth of the alley and looked up the alley, and about the time I looked up the alley I saw them firing.

A. I don't understand that. Does he mean to say that the second squad that came up towards me divided again?

Q. That is the very purpose I had in reading that to you.—A. That is some kind of an error there.

Q. The squad that came up and turned into the alley did not divide up?—A. No, sir.

Q. You meant that the dividing was at the first?—A. Down at the first.

Q. The first squad there at the corner of Elizabeth and Fifteenth?—A. Yes, sir; the 18 or 20 men.

Q. (Reading:)

I came back to the mouth of the alley and looked up the alley, and about the time that I looked up the alley I saw them firing.

That was this little squad that you saw go down?—A. Go up the alley; yes, sir.

Q. (Reading:)

Q. Into Mr. Cowen's house?—A. I can not say positively. I saw men going up the alley, and saw them firing.

Q. Could you at that time, Mr. McDonnell, either from the light in Mr. Cowen's house or from the flashes of those guns, see how those men were dressed who were doing the shooting in the rear of Mr. Cowen's house?—A. No, sir; I could not tell.

A. Most assuredly I could not.

Q. No; you could not. It was pretty dark in that alley, was it not—a dark night?—A. No; it was not a real dark night. It was a moonless night.

Q. No moon, only starlight, and they were down opposite Cowen's house, in the alley, firing towards it?—A. Yes, sir.

Q. And you saw 12 or 15 shots fired?—A. There must have been as many as that.

Q. And you were looking at them when they were doing it?—A. Yes, sir; I was looking at what I took to be that same squad of men firing into that house.

Q. And you could not tell anything about their personal appearance, or how they were dressed at that distance, when you were thus looking at them?—A. No, sir; I could not be positive about it.

Q. (Reading:)

Could you see how many men there were in that squad?—A. No, sir; I could not.

That is correct, is it?—A. I think so.

Q. But you had seen as many as five or six go in there?—A. Maybe eight or ten.

Q. And they all eight or ten seemed to be there in a bunch?—A. Yes, sir.

Q. (Reading:)

Could you distinguish any forms or outlines of men there?—A. If I could distinguish the forms or outlines of any men, I don't remember it.

That is correct, is it?—A. Oh, I must have certainly have seen their forms and outlines of the men or I could not have seen the men firing.

Q. What I suppose he was trying to get at was whether you saw each man distinctly or whether you saw the bunch.—A. Well, that is different.

Q. You just saw the bunch of men there?—A. Saw the bunch of men.

Q. You could not distinguish one from the other?—A. Any particular one? No; I could not.

Q. (Reading:)

I saw the shooting there at Mr. Cowen's house, and reasonably supposed it was a squad of men who had turned up the alley.

That was all you could tell about it?—A. That was all I could tell about it.

Q. That is, you had seen them down here by the gate, and could tell they were soldiers because of the way they were dressed, and when you saw them down in the Cowen alley, you knew, I suppose, they were the same men only because you had seen them go in

there?—A. When I saw them down at the corner, at the gate, I recognized them, as I told you, as being soldiers, and negro soldiers at that, and when they came up, as they came they were all the time getting closer to me, and I recognized them more fully.

Q. Let me read further:

Q. Where did you go then?—A. Well, sir, I turned right around and went straight back home.

Q. Back into your house?—A. From the gallery in front of the house.

That is correct, is it?—A. Yes, sir.

Q. You did not follow the men down the alley?—A. No, sir.

Q. After they left the front of Cowen's house then you turned and went back to your house?—A. No, sir; at least they did not leave the immediate vicinity.

Q. They were somewhere in that neighborhood?—A. In that immediate vicinity.

Q. So far as you could tell.

Q. You knew at that time that something unusual was happening in town?—A. I did. I knew I had no business out in town.

That is right, is it?—A. Yes, sir.

Q. (Reading:)

In other words, you were apprehensive lest you might be injured or shot?—A. That is what I expected. I thought I was liable to get killed, and that is the reason I went back home.

A. Correct.

Q. (Reading:)

Did you come out again that evening?—A. Yes, sir; I remained until all the firing was over. After that I came right downtown again.

That is correct, is it?—A. I came downtown immediately after the firing; yes, sir.

Q. How much firing did you hear after that?—A. I could not say. There must have been 150 shots fired.

Q. Here is a little more that I will read, at the top of page 32:

Q. Now, while you were in the road, outside the garrison wall, observing these soldiers, just outside the main entrance of the garrison wall at the foot of Elizabeth street, did you at that time, or shortly thereafter, hear any talking among those soldiers?—A. I heard nothing I remember of inside the garrison wall—no words spoken. The only words I heard spoken were after the squads divided—a few words in an undertone—but could not distinguish what those words were.

Is that correct?—A. Is not that what I told you before?

Q. Now, when you got back to the house, did you meet anyone?—A. Yes, sir.

Q. Whom did you meet?—A. Soon after I came back into the yard, this man that owned that saloon, Mr. Tillman, came to the gate.

Q. Mr. Tillman?—A. Yes, sir.

Q. Did you have any conversation with him?—A. Yes, sir; me and him had a little conversation there at the gate.

Q. Did he come to your gate or did you go to his?—A. No; he came to the gate of the place where I am living at.

Q. Did anybody else come down out of your house onto the street at that time?—A. No, sir; not that I am aware of.

Q. Did not anybody else in your house get up and go down to see the firing?—A. Not that I know of.

Q. You are the only one?—A. I am the only one that I am aware of.

Q. You did not see anybody else on the street while you were down about the alley?—A. No, sir; only what I have told you.

Q. And you did not see anybody else on the street when you got back?—A. Only Mr. Tillman. He was the first man I met.

Q. Where did he come from?—A. I think he came out of his own house.

Q. Did you see him come out of his house?—A. No, sir; I don't think I did. I don't remember.

Q. Did he seem to be excited, or was he calm?—A. No; he was a little excited.

Q. He was a little excited, was he?—A. Yes, sir.

Q. Did he seem to have been taking exercise?—A. I think that Mr. Tillman told me right there that night—I am not sure of this, now—I think Mr. Tillman told me that he had been downtown at the saloon when that firing was done, and he came home immediately on account of his wife being there by herself, and that as soon as he came home he had turned back again to go back downtown after the firing had ceased, and I said to Mr. Tillman, "It is not safe to go downtown." and I said, "If you will wait a moment, I will go down there with you."

Q. You testified before the court-martial of Major Penrose, didn't you?—A. Yes, sir.

Q. Did you talk any with Mr. Tillman?—A. I talked with him there at the gate.

Q. Did you go any place with him?—A. When the firing ceased I went directly downtown with him, and went into the saloon where his place of business was.

Q. You went into his saloon?—A. Yes, sir.

Q. About how long was that after the firing was all over?—A. It could not have been more than four or five minutes.

Q. Four or five minutes?—A. Hardly that, I think.

Q. What condition did you find there—people there?—A. A few people. There was a few people.

Q. Some excitement?—A. Some excitement; yes, sir. About the first thing that I remember there was a policeman told me there was a dead man in the backyard.

Q. Have you ever read over your testimony as you gave it before the Penrose court-martial?—A. I have looked it over; yes, sir.

Q. Is there anything in the testimony that you gave there that is incorrect?—A. I don't remember to have noticed anything. I did not read it all over.

Q. Do you remember what your testimony was before the Penrose court-martial as to whether anybody got over the wall?—A. I do not quite understand your question.

Q. Do you remember what your testimony was as to whether anybody got over the wall?—A. Do you mean to ask me what my testimony was concerning anybody getting over the wall, or my seeing anybody?

Q. Yes.—A. My testimony was the same as I have given you—about the same words.

Q. That is, that you did not see anybody get over the wall?—A. Yes, sir; I think that was it.

Q. At page 70 of the court-martial testimony the following appears, after having spoken of seeing these men at the gate:

Q. Did you see them actually come out of the gate?—A. No, sir; I did not.
Q. And you are certain that they did not come over the wall?—A. I didn't see them come over the wall. Oh, no; I do not say they did not come over the wall; I say I did not see them.

A. Yes, sir; I guess I made that answer; I guess I said so.

Q. Now, did you not say there that if they had come over the wall you were in such a situation that you could have seen them?—A. I would probably have seen them.

Q. That you had the whole wall in your view?

Senator WARNER. Would it not be proper to find the question and call his attention to it?

Senator FORAKER. Yes; only I was hurrying a little. I can get this in a minute. (To the witness:)

After you testified that you were at the mouth of the alley, you were asked as follows:

Q. Could you see inside the garrison from where you stood?—A. Yes, sir.

Q. Could you see the barracks distinctly?—A. Yes; I could if I looked; could see the barracks distinctly; yes.

Q. Did you say anything about any men jumping over the wall while you were there?—A. No; I saw no men jump over the wall.

Q. You could have seen them if they had jumped over the wall, anywhere near the alley, I mean?—A. If I had been looking in the direction at that time, yes, I could have seen them.

Q. As a matter of fact, did you not state to this court yesterday that you were looking in that direction?—A. Of the barracks?

Q. Yes; or in the direction of the wall.—A. No; I looked in the direction of the barracks, for the simple reason that I saw a shot from the upper gallery of the barracks, and that attracted my attention. When I turned my head again down Fifteenth street, why, then's where I saw the men assemble, at the foot of Elizabeth street.

Q. I will ask you if at any time while you stood there or moved back about halfway up—you said you moved yesterday—whether at any time during that proceeding any men jumped over that wall?—A. No, sir; I did not see anybody.

That is all correct, is it?—A. Yes, sir.

Q. And did you further testify:

Q. You are positive they did not?—A. I am positive I did not see none.

Q. Would it have been possible for any man to have jumped over that wall near the little spot marked as the rear, and you not see them during the time you stood there?—A. I don't think it was possible where I stood for men to scale the wall without me seeing them, for my attention was attracted there where I stood at that corner to about there the letter B is on that barracks, and if there had been anybody go over the wall I would have been pretty near sure to see them.

Q. Were there any men in that direction during the time you stood there?—A. No; I did not see any.

Q. If any men had been right where the letter B on the picture is, could you have seen them?—A. From where I stood looking over the barrack wall I might have seen from their head up, or shoulders, maybe—I don't know how high the wall is; some 4 or 5 feet—I had to look over it, and if I had seen anybody I could only have seen their head or shoulder.

That, I believe, is all I care to read. All that is true, is it?—A. Virtually; yes, sir.

Q. And all the rest of your testimony on that and all other points as given before the court-martial has been read over by you, and it is correct, is it?

Senator WARNER. He said he had not read it all over.

A. I have not read the court-martial testimony all over; no.

Q. I thought you said you had read it?—A. No; I have seen it, looked over some of it. You are reading a part that I had never read over before; never looked over.

Q. This is all true, as I have read it, isn't it?—A. Virtually correct, I think.

Q. Were you a good deal excited?—A. Well, I can hardly say. I guess I was a little excited—that bunch of men, when I realized what they were and what I thought their intentions were; yes, sir.

Q. Had you heard any talk in the town there among the citizens, about the soldiers coming, before the firing?—A. Oh, I had heard some talk in town about the soldiers coming there; yes, sir.

Q. Was the nature of it friendly to them or otherwise?—A. Please speak a little distinctly. I am a little hard of hearing.

Q. I say was that talk friendly towards the soldiers or otherwise?—A. Well, I think the purport of the talk usually was that the people would rather have had white soldiers there than colored soldiers.

Q. Rather have them?—A. Yes, sir. Still, I never heard anything hard said about them.

Senator FORAKER. That is all.

Senator WARNER. That is all, Mr. McDonnel.

TESTIMONY OF PAULINO S. PRECIADO (Recalled).

PAULINO S. PRECIADO, a witness previously sworn, resumed the stand.

(The testimony of this witness was taken through Walter H. Ferguson, interpreter.)

At the direction of the chairman the interpreter explained to the witness that he was still under oath.

By Senator FORAKER:

Q. You testified before the grand jury, did you not?—A. Yes, sir.

Q. Did you not make before the grand jury the following statement:

GRAND JURY ROOM, September 10, 1906.

PAULINO PRECIADO, being duly sworn, deposes and says:

I live in Brownsville, Texas; on the night of the shooting I was in the Ruby Saloon, belonging to Mr. Tillman, near midnight. We, myself, Antonio Torres, Nicolas Sanchez Alanis, and Mr. Tillman, were sitting in the yard, when we heard some shots. Tillman got up at once and left us. We remained with the bartender, Frank Natus; the latter closed the doors towards the street; in the meantime the shooting became heavier. Then the bartender went to close the door towards the alley. He went about 20 feet towards the door, when a volley was fired. Natus exclaimed, "Ay Dios," and fell down; I saw him because I was looking in that direction when the shots were fired. I saw I was in danger and went to one side. I could not see anybody in the alley, as it was dark out there and I was in the light. I heard no word spoken. I hid in a corner where a brick wall protected me until the shooting was over, then I went to close the alley gate. While I was in the corner I received a slight

flesh wound on the left hand, and another passed through my coat and vest, breaking my spectacles, which I carried in the left breast pocket of my coat, but did not hurt me. I think I received the shots at the time Frank Natus fell, but did not notice it at the time. When the shooting was over I went and opened the front door and asked the crowd of people who were there if there was an officer amongst them. Mr. Victoriano Fernandez came forward, and I told him what had happened.

(Signed)

PAULINO S. PRECIADO.

Sworn to and subscribed before me this 10th day of September, 1906.

WM. VOLZ,

Foreman Grand Jury.

A. There is a little difference in this. The detail is lacking that before Natus went to close the doors I went out to take observations of the shooting that was going on, which was from the direction of the barracks towards me. There is where I heard the voice of Mr. Crixell, who cried, "Close up, because the negroes are coming." Another detail which does not seem to be explained there is about the group of soldiers which entered from the alley through the door inside. This group was the one which fired, and it was one of the first shots which was fired by this group that killed Frank Natus when he fell. When I saw Frank Natus fall, and that there was a great deal of danger, owing to the continued shooting, then it was that I sought shelter to hide myself.

Q. How did you come to omit stating to the grand jury that these soldiers were inside the gate?—A. I was subject to their questions, and, since they did not ask me, I did not state it. They asked me whether I had seen soldiers in the alley, and I could not see them in the alley.

Q. Why could you not see soldiers in the alley?—A. Whether there were soldiers in the alley or not, I could not tell.

Q. When was it you looked into the alley to see?—A. At the time that I was in front of Natus, when Natus fell, and when they fired.

Q. At that time you could not see anybody in the alley?—A. Not in the alley.

Q. Were you in front of Natus, as I understand you now to say you were, when Natus was shot?—A. Yes, sir.

Q. What do you mean by being in front of him?—A. I was in the same direction from the alley. Frank Natus was standing between me and the alley.

Q. Where were you standing?—A. Inside of the door of the saloon.

Q. Didn't you simply rush up there, and immediately whirl about and run away again?—A. What do you mean by run up?

Q. From inside the Tillman saloon, following after Natus, who had gone out into the courtyard?—A. When I saw that Frank Natus fell I went from one side to the other and sought shelter.

Q. State whether or not the testimony as given here before the grand jury is correct—whether this report is correct.

Senator WARNER. Has he not explained where the details differ?

Senator FORAKER. Whether it is correct, as there given. (To the witness;) Did you testify before the grand jury at all to anything except what is given in their report?—A. There was some other testimony on another case.

Q. On another case?—A. Yes, sir.

Q. Do you mean some other case than on the Brownsville matter?—A. On this Brownsville matter.

Q. Is what has been read to you all you said on the Brownsville matter?

Senator WARNER. That has all been read over to him, and the witness now is talking through an interpreter, and he gave the details of things that were left out, which are not in this statement, and I further suggest that the statement here is simply given in narrative form and not by questions and answers. I do not know what the law of Texas is about keeping a memorandum of the testimony, but it shows upon its face that it is not a full abstract of his testimony.

Senator FORAKER. In answer to what Senator Warner says, I want to state, and have it go in the record, that what I am trying to get at is whether this is a full report of all he said. In answer to the question I propounded a while ago, the witness said there were certain details which he did not give because he was not asked about them. Now, I simply want to know whether he testified as reported here, or whether he omitted something because he was not asked, that is all.

Senator WARNER. The Senator and I do not remember the testimony exactly the same. My remembrance is distinctly that he pointed out certain things that were not in the report.

Senator FORAKER. He said the reason they were not there was that he was not asked about them. I will ask the interpreter to ask him if he did not give as a reason why certain details were omitted that he was not asked about.

A. For that reason; yes, sir.

By Senator FORAKER:

Q. State whether this testimony given before the grand jury is correct—whether this report is correct.—A. I have already stated that there was a difference, and I have stated what the difference was.

By Senator TALIAFERRO:

Q. Was any detail omitted because you were not asked about it other than that the soldiers came into the alley?—A. Yes, sir.

By Senator FORAKER:

Q. What was it?—A. In the grand jury they asked me whether or not I had seen soldiers in the alley, and I replied, "No."

Q. Is that all they asked you about, seeing soldiers?—A. Yes, sir.

Q. Is that all you said before the grand jury about seeing soldiers?—A. Yes, sir; and about my going out to report the death of the man who was killed.

By Senator WARNER:

Q. Before the grand jury they asked you questions, did they not?—A. Yes, sir.

Q. And you made answers?—A. I replied through an interpreter.

Q. And the testimony was given by questions and answers in the same manner as it is given here?—A. Yes, sir.

By Senator FORAKER:

Q. But they asked you no question about the soldiers, except the one about the alley?—A. Yes, sir.

By Senator FRAZIER:

Q. Was the reason that you answered, in testifying before the grand jury that you did not see the soldiers in the alley, was it because the soldiers that you did see were inside the door in the court?—

A. The soldiers that I saw were inside. I could not tell whether there were any outside or not.

At 4.30 o'clock p. m. the committee adjourned until Monday, May 27, 1907, at 10.30 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS.

UNITED STATES SENATE,

Monday, May 27, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Foster, Overman, and Frazier.

TESTIMONY OF MAJ. AUGUSTUS PERRY BLOCKSOM, U. S. ARMY.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Please give your name in full.—A. Augustus Perry Blocksom, major, Inspector-General's Department, United States Army.

Q. What is your age?—A. I am 52.

Q. You are a graduate of West Point?—A. Yes, sir; in the class of 1877.

Q. And have been actively connected with the Army ever since?—A. Yes, sir.

Q. What State did you go to West Point from?—A. From Ohio.

Q. Have you ever been stationed in Ohio?—A. Yes, sir; I was stationed there at the Ohio State University from 1884 to 1887.

Q. How long have you been connected with the Inspector-General's Department of the Army?—A. I was detailed on April 20, 1905, in that Department.

Q. You have served with your command in the field?—A. Yes, sir.

Q. Where, Major?—A. I have served in the field in Arizona, New Mexico, Colorado, South Dakota, China, the Philippines, Nebraska, Kansas, and Indian Territory.

Q. It has been a continuous service of that nature from the time you were detailed in the Inspector-General's Department?—A. No, sir; that is my whole service. In the Inspector-General's Department I have served at the headquarters at Oklahoma City and St. Louis, and I have made inspections in Texas, New Mexico, Arizona, Indian Territory, Colorado, and Utah.

Q. In short, you are quite familiar with the inspection of troops?—A. Yes, sir; I am.

Q. And a part of your duty as inspector is to find the condition of the troops as to discipline, and also to investigate any infractions of military duty?—A. Yes; anything of that kind.

Q. Major, were you ordered to Brownsville to investigate the affray there, the shooting affray of the night of the 13th of August, last year?—A. Yes, sir; I was ordered by a letter from the division

commander, who was General McCaskey at that time, to go down there and investigate this trouble.

Q. When did you get to Brownsville?—A. I got there on the night of the 18th of August.

Q. Five days after the shooting?—A. Yes, sir; it was about 6 o'clock that evening when I arrived there.

Q. How long did you remain in Brownsville in that connection at that time?—A. I remained there until the 4th of September.

Q. During that time, Major, did you make as thorough investigation as you could as to the shooting, and as to the fact whether or not that shooting was by citizens or by members of the Twenty-fifth Infantry then stationed at Brownsville?—A. Yes, sir; I investigated it as thoroughly as I could.

Q. There is a statement made by Mr. Gilchrist Stewart that you possibly went there with a preconceived conviction as to the guilty parties, whether they were citizens or soldiers. Did you have any such conviction when you went to Brownsville, when you got there?—A. No, sir; I had not.

Q. Now, Major, in your own way, please tell generally just what you did, and the conclusions at which you arrived, in this investigation.—A. I arrived there, as I said, about 6 o'clock in the evening of August 18, and commenced making inquiries of the citizens I met at the Hotel Miller, where I stopped. I spoke to the proprietor, himself, I think, on that evening, Mr. Moore, and possibly his wife, and several other guests who were there. I talked to a number of other people who were there that evening. Afterwards I went over to the post. I found there that the post was under a very strict guard; that none of the soldiers were allowed to go out. There were quite a number of sentinels posted along the line of the barracks wall. There was an officer there in charge of the guard, the headquarters of which at that time were in the end of D Company barracks, and I saw Major Penrose, either at the gate when I went in or very shortly afterwards. I saw Doctor Combe there, the mayor of the city, and I talked to Major Penrose about the matter, and to Mayor Combe, and to the officer who was in charge of the guard—I think it was Captain Lyon—about the situation generally, and made inquiry as to whether there was any immediate danger of any further outbreak on the part of either the soldiers or the citizens. Both Major Penrose and Doctor Combe told me that there was no danger, and I became convinced that everything was well in hand at that time. The next day I made inquiries among a good many persons of the town. I saw Mr. Sanborn, the telegraph operator; Mr. Rendall, who lives over his office; and Mr. Martinez, who lives very close behind the house; and I think I saw the Cowen family on that day, including their servant, who was an eyewitness to the shooting.

I talked with the citizens' committee, the investigating committee, which was holding its sessions on the second floor of the building right next to the Miller Hotel. I met probably a dozen or fifteen of those members. I met Captain Kelly, Judge Bartlett, Judge Wells, Mr. Kibbe—quite a number of gentlemen there—and talked with them all about the matter, and I think I talked with several other people on that day, but I do not remember exactly who they were. During the next week I tried to find out all the eyewitnesses to the

occurrence, and all those who had heard anything which would indicate whether the raiders were white or colored or Mexican; and I interviewed all the officers of the post, quite a number of the noncommissioned officers of the post, the noncommissioned staff, and members of the hospital corps, and I became thoroughly convinced that the shooting was done by members of the battalion.

Q. Right in that connection, in your talk with Major Penrose, what doubt, if any, did he ever express to you as to its being some members of his battalion that had done the shooting up of the town of Brownsville?—A. He never expressed any doubt whatever.

By Senator OVERMAN:

Q. Did he express it as his belief that they did it?—A. He did. He said that he believed that they did it.

By Senator FORAKER:

Q. Was there any doubt expressed by any of the other officers?—A. No, sir; there was no doubt expressed to me. I told each and every one of these officers what I believed in the matter, what I had found out over in town, and none of them ever denied to me that the shooting was done by the soldiers. One of them, Captain Lyon, did state that he did not believe his soldiers had anything to do with it.

By Senator WARNER:

Q. That is, his company?—A. The members of his company. In this connection I would like to state that I particularly impressed on Mr. Lawrason, who was commanding B Company at the time, the facts which I had found out regarding the firing of shots into the Yturria house.

Q. Just state what those facts were.—A. About the bullet holes I found?

Q. Just state that.—A. The statement of the Mexican boy who had been sleeping there at the night of the shooting?

Q. State, in that connection, just what you found out.—A. I think it was the next day after arriving there that I went to the Yturria house and saw a Mexican boy there, whose name I think was Teofilo Martinez. He told me that he had been sleeping on this porch the night of the shooting, and he was awakened by it, and that he heard the shots striking the house, and that he was very much frightened and went back into an outhouse and stayed there for some time. I asked him where the shots came from, and he said they came from over in the barracks, but he could not tell as to the location of them. I asked him to show me the bullet holes, and he showed me the marks, the bullet holes, of three bullets which struck on the outside of the house, and the mark of another one which he said must have gone through the roof and entered the ceiling of the dining room. He showed me where it came out in the dining room. These three bullet holes which I speak of indicated to me very plainly that the rifles firing them must have been on the porch of B Company barracks. One of them, especially, showed this to be true. It struck the lower edge of (I suppose you call it) the lintel of the porch, and made a groove along the lower side of the lintel. Where it first struck the lintel it made first a probably half-round hole. Where it left the lintel there was hardly any mark at all, just sufficient to show that the

bullet had touched it as it left, making a groove along this lintel, the depth of which decreased from the place where it struck to the spot where it left it. I got up on the railing of the porch and measured along this groove. It struck the upper porch of B barracks, as I remember, between the fourth and fifth pillars, as I suppose you call them, of the porch. This shot went into the wall slightly lower than what would be the case if it went straight, as indicated by the groove, and the hole, as I remember it, was slightly enlarged from the size of the bullet—a small-caliber bullet, as I took it to be, from the others that I saw there—and the size of the groove where it first struck the lintel.

Q. What kind of a bullet did you say?—A. It was a small bullet; I can not say certainly whether it was a .30-caliber or not, but it was about that. It certainly was no larger. I sighted along this groove from the outside and looked at the bullet hole in the wall, and it was slightly lower than it would have been had it gone straight along the line of the groove, indicating, to my mind, that the bullet had tumbled slightly. This bullet went through the wall, and I think that it was this bullet that went through the back door of the kitchen; and I do not know whether I knew it at the time or not, but it was shown to me afterwards—the second time—when I was there, that it had struck the covering of the well in the back yard, and Mr. Garza, who was a clerk for Mr. Yturria, told me he picked it out of there, and he gave it to me.

Q. The range of the bullet was, then, downward?—A. The range of the bullet was downward all the time.

Q. Now, from your experience as a soldier and from your observations, you located that as being shot from what point, Major, substantially?—A. It was shot from the upper gallery of B barracks—the porch—I think, between the fourth and fifth pillars on the eastern end of that porch.

Q. You call the eastern end—A. Up that way [indicating].

Q. From the river?—A. Yes, sir.

Senator WARNER. That is the way that we have been calling it.

By Senator FRAZIER:

Q. Does the porch extend entirely around the barracks or does it stop at the eastern corner of the barracks?—A. It stops at the eastern corner of the barracks.

Q. And you think, from sighting the way you did, that the shot was fired from between the fourth and fifth pillars, extending west from the east corner?—A. Yes, sir; it was probably, I should say, one-third of the distance, or less, of the length of the barracks from the east end.

By Senator WARNER:

Q. Just state, if you will, what observation you made to determine the range of the bullet.—A. You mean the direction in which it went?

Q. Yes; and what observation you made towards ascertaining the point from which it was fired.—A. The bullet struck about there somewhere [indicating].

Q. That is, in the rear, or kitchen, part of the building?—A. Yes, sir; the kitchen. It struck, I suppose, about there, where it struck the lintel [indicating].

Q. That is, substantially, how many feet from the west end of the kitchen part?—A. Probably 20 feet, although that is mere guess-work on my part.

Q. Yes.—A. And, as I remember, the bullet went almost perpendicular to this line, although I think it was slightly that way [indicating]. My impression is that this map is incorrect so far as the location of the barracks is concerned with reference to that house.

By Senator FRAZIER:

Q. In what respect is it incorrect with reference to the house?—A. I think it ought to be farther up this way [indicating].

Q. B barracks ought to be farther east, then?—A. Yes, sir; it ought to be farther east.

By Senator WARNER:

Q. From the sighting you made there, you determined that it was fired from B Company barracks, as you have stated?—A. Yes, sir.

Q. Now, what about the other shots, Major?—A. There was another shot, probably 5 or 6 feet from the first one, which went through the lintel. It was about 5 or 6 feet this way; that is, east [indicating]. That went entirely through the lintel. The lintel was probably 4 inches in thickness—and that struck the kitchen wall and went through the wall, and went through the other wall of the kitchen. I do not remember much about that shot, except that it ranged down and that the general direction in which the line of the holes pointed was to the same point as the other bullet. There was another bullet which struck the outside wall opposite the partition between the kitchen and the dining room, and it went partly through the partition and came out in the dining room, nearly the top of the wall. It shattered a picture which was hanging up there and ranged downwards from that point, tumbled, and struck the dining-room door, which opened out into the yard, at a point—

By Senator BULKELEY:

Q. Where was that door?—A. The door was in this side of the dining room [indicating].

Q. That is the east end?—A. That is the east end.

By Senator OVERMAN:

Q. That is one story, is it?—A. Yes, sir; that is one story. The bullet lodged in that dining-room door, and when I was there the second time I picked it out. Mr. Yturria took me around the house there. I went with Mr. Garza, too, there the second day there. The other bullet, I think, was about the middle of the dining-room ceiling, or it came out about the middle; but I do not remember much about what kind of a hole that was. I remember this boy showed it to me.

By Senator WARNER:

Q. Did it range downwards?—A. He said that it came from the roof, and it must have ranged downwards.

Q. Taking this first bullet, the range of which you located as coming, as you have stated, from the second gallery of B barracks, would it in your judgment have been possible for that bullet to have been fired by a party standing on the ground?—A. It would have been impossible.

Q. Or even standing upon the wall of the barracks?—A. It would have been impossible from there. This lintel was at least 10 feet from the ground, and the shot ranged downwards.

Q. You mean the point of entrance of the bullet?—A. Yes, sir; the point of entrance of the bullet was at least 10 feet from the ground.

Q. Now, Major, in that connection, did you make any examination of any bullet marks upon the house occupied by Mr. and Mrs. Rendall, at the corner of Elizabeth street and Garrison road?—A. Yes, sir.

Q. That house is marked on the map with the figure "1." A. Yes, sir.

By Senator OVERMAN:

Q. Before you leave the Yturria house I would like to ask you whether there is not a plank fence along the road there separating the street from the yard?—A. The Yturria house?

Q. Yes.—A. Yes; there is a fence right there [indicating].

Q. What kind of a fence is it?—A. That was a board fence. I think it was a closed fence. I do not remember how high it was, but I think it was 5 or 6 feet.

Q. Did you see any bullet holes in that fence?—A. No, sir; I did not look to see.

By Senator FRAZIER:

Q. Does that fence extend around by the alley in the rear of the house?—A. Yes, sir; right here.

By Senator FOSTER:

Q. Were all these shots fired from high-power rifles?—A. Yes, sir; I should say so.

By Senator WARNER:

Q. Now, go to the Rendall house.—A. I saw Mr. Rendall in his sitting room, which was right on this corner, upstairs, and he showed me the marks of a bullet which he said had been fired from somewhere down in this locality [indicating].

Q. That is the locality of Company D barracks?—A. Yes, sir.

Senator FORAKER. He does not point to the barracks. He is pointing to a point on the wall immediately in the rear of the center of D barracks.

The WITNESS. It may be that I am putting this point here because I remember the direction of the bullet, but I think he told me himself that it came from down here [indicating]. At any rate, he showed me the bullet marks. One of these bullets had struck the outside of the wall just above the window. I do not remember how far it was above it and I do not remember which corner, but I think it was the second window, and the end of it that way [indicating].

By Senator OVERMAN:

Q. The window in the second story?—A. Yes, sir. It struck above the window.

By Senator WARNER:

Q. That is, on the Elizabeth street front?—A. Yes, sir; on the Elizabeth street front, and it went in a direction nearly perpendicu-

lar to the street, as well as I remember it, and entered the wall on the other side, I think, a little higher than where it entered, but I am not positive about that.

Q. Did you make any observations to satisfy yourself as to the point from which that was fired?—A. Yes, sir; I did. I became satisfied that it came from a point on the wall here [indicating], or some point farther down.

By Senator OVERMAN:

Q. In front of D barracks?—A. Yes, sir; in front of D barracks.

By Senator WARNER:

Q. That is, back of D barracks?—A. Yes, sir; this is the front [indicating].

Q. And from a point on the wall?—A. Yes, sir; that is why I think it ranged up, because I am satisfied that it came from a point down here somewhere [indicating].

Q. Just state what examination you made to determine this fact. You say you satisfied yourself as to the location of the party doing the shooting?—A. Well, I saw the direction in which this bullet went, and I either satisfied myself by personal inspection of the difference in the height of the holes, or from Mr. Rendall's statement to me, himself, that the bullet came from down there, somewhere [indicating].

Q. That is, you are pointing now to a point between the rear of D barracks and the wall?—A. To a point between the rear of D barracks and the wall; or it might have been from the wall. It is possible that it might have come from the street.

By Senator FORAKER:

Q. Outside of the wall?—A. Yes, sir; outside of the wall. But I remember at the time the mark was so high that I thought it came from the wall, from a point inside, between the wall and the barracks.

By Senator WARNER:

Q. Did you examine other buildings there, then?—A. Yes, sir; I examined the Cowen house, in which dwelt Mr. Louis Cowen and his family, and I interviewed them, and they showed me bullet holes in that house. I saw the marks of, I suppose, eight or ten bullets. There were over twenty bullet marks in the house. They came from the alley east of the back rooms of the house.

Q. That is, the alley between Elizabeth and Washington streets?—A. Yes, sir.

Q. Go on, Major.—A. I can point out this on the map. The most of the bullets seemed to have come from a point about there [indicating].

By Senator WARNER:

Q. You are pointing now to a point in the alley?—A. Yes, sir; or possibly closer.

Q. About how many feet from the mouth of the alley at Fourteenth street; that is, how many feet south?

Senator FORAKER. He pointed to a point opposite the line of the house next to the garrison.

A. The point from which the bullets mostly seemed to have come. I should say, was—well, about 30 feet from the corner here.

By Senator WARNER:

Q. From the corner of Fourteenth street and the alley between Washington and Elizabeth streets?—A. Yes, sir; about 30 feet from the corner of the alley.

Q. Right in that connection, Major, I notice in your report of August 29 you say:

The raiders first struck Cowen's house (at end of first block). There were two women and five children in it. It is a miracle some of them were not shot. The raiders could not help knowing they had not yet gone to bed. About ten shots were fired, nearly all going through house at a height of 4½ feet or less above floor. One shot put out the lamp sitting on a table. Mrs. Cowen has been on the verge of hysterics ever since. It is said the Cowen children had made fun of "the nigger soldiers;" but I could not pin down the reports. There must be some truth in them.

That you learned there generally, did you, as a matter of rumor, that the Cowen children had done this?—A. Yes; several people told me that they had heard it; but when I tried to get them to tell me who told them I could not pin them down to it. I will say, too, that Mr. Louis Cowen was himself extremely bitter against the soldiers, and I believe always had been. In talking to me he showed a most intense animosity. Of course it may have come from the shooting itself.

Q. Which would naturally create that?—A. Yes, sir.

Q. But he was a man who talked a great deal, was he not?—A. Yes; he talked a great deal.

By Senator OVERMAN:

Q. Before you go from that, you started to say that you had a conversation with Lieutenant Lawrason, and were telling him about the bullets in the Yturria house; and you started to tell about that when we asked you to describe the bullets. What was it that you told him?—A. Oh, yes; I told him all I had found out about those bullets, and how I had sighted through this groove; and I offered to take him over there and show him the place; and I tried to impress upon him the fact that there was no doubt whatever about the fact that the soldiers had done the shooting, and that it was his duty to find out who it was that did the shooting from that porch on that night; and he told me that he would try to do so, but he never reported to me anything about it afterwards.

By Senator FRAZIER:

Q. Did he go with you over to examine the groove that the bullet had made?—A. No, sir; he did not. In the press of other things I forgot about it myself, and I suppose that he did. He is quite an inexperienced young officer.

By Senator OVERMAN:

Q. Did he express any doubt about his men doing the shooting?—A. No, sir; he did not express any doubt.

Q. Did he say that he believed they did it?—A. My recollection is that he did, but I can not say positively that he did, when I asked him. I know one thing, that he never expressed any doubt as to my belief.

By Senator WARNER:

Q. Tell us about the other buildings you inspected.—A. I inspected the Miller Hotel, and saw the marks of one bullet which entered a window in the second floor, in one of the back rooms, went through the wire screen, struck the lower part of the window sash, ranged up and went through the ceiling. That bullet came from a point probably 8 or 10 feet away from the building and 8 or 10 feet towards Thirteenth street.

Q. That is, you mean from the mouth of the alley at Thirteenth street?—A. No, sir; from the window itself. This window, as I remember it, was very nearly in the middle of the back part of the hotel. The person firing the bullet must have been about in that position [indicating]; probably a little closer to the window.

Q. When you say "in that position," that is in the alley, and south of Thirteenth street?—A. Yes, sir.

Q. About how far, would you say?—A. Well, I should say, in a horizontal line, it was 10 or 15 feet away from the base of the window—the middle of the window.

By Senator FRAZIER:

Q. And how far away from Thirteenth street?—A. Oh, probably about 10 or 15 feet from Thirteenth street; it might have been a little farther or a little less. I do not remember exactly the location of that window. It entered the wall, or the ceiling, about 5 or 6 feet from this wall [indicating]—that is, it entered the ceiling in this direction 5 or 6 feet from the wall and only a foot or two from this wall between the room and the next room east or south. That was the only bullet mark that I remember on that side of the Miller Hotel. There were four or five—five other bullet holes, I think, on this side of the hotel.

Senator WARNER. That is, on the Thirteenth street front?

A. Yes, sir. One of them struck a window in the third floor, right near the point of the bricks and near the lower part of the window. It went through the window frame, went through the door of the room and out into the hall, and went through the ceiling in the hall. At the point where this bullet struck I judged it came from a point about here, in the street [indicating].

Q. That is near the corner?—A. Nearly the diagonal opposite corner from the hotel.

Q. The corner of Thirteenth street diagonally across?—A. Yes, sir. Then there was another bullet which struck the bricks within an inch or two of where this first one I have described struck the window and made quite an indentation in the brick. Then there were three other bullet holes farther down this way, which struck about on a level with the first two. I did not examine them closely. I was told they were bullet holes, and they looked so to me. They were probably 3 or 4 inches in diameter, with the centers deeper than the edges.

Q. The Martinez cottage is marked there on the map, "9?"—A. Yes, sir.

Q. Did you examine that as to bullet holes?—A. I did not examine that the first time I was there, but I did afterwards, the second time I was there.

Q. You might just give what you found there now, in this connection, and that will save coming back to it. Tell us just what you discovered.—A. I discovered a very small hole, indicating a shot from a small-caliber rifle, in the window, and a hole in the opposite wall, indicating that a bullet had gone through the house. That, as I remember it, was nearly horizontal—the line between the two bullet holes.

By Senator FRAZIER:

Q. About how far above the ground, the entrance, and exit?—A. It was probably about 4 or 5 feet above the ground.

By Senator WARNER:

Q. Now, the Leahy Hotel, marked "3" on the map; tell us about that.—A. I saw some shots in the back part of the Leahy Hotel, I think two which struck the wall.

Q. When you say the back part, you mean that on the alley?—A. Yes, sir; this building, as I remember it, goes clear back.

Q. To the alley?—A. Yes, sir. There is a brick building which went clear back to the alley, and two shots had struck somewhere about here [indicating].

Q. That is, on the Fourteenth street side?—A. Yes, sir.

Q. A few feet west of the alley?—A. Yes, sir.

By Senator OVERMAN:

Q. Are you positive that the Leahy Hotel extends back to the alley? Can you be mistaken about that?—A. I could not swear to it, but my very strong impression is that it does; that it goes clear back to the alley. I think that drawing is wrong. At any rate, the bullets struck this back part, and I think one of them was up pretty high, and one of them probably 3 or 4 feet from the ground. I did not look at those bullet holes very carefully to ascertain from what direction the shots were fired.

By Senator WARNER:

Q. Now, tell us about the Starck house.—A. By the way, there is another house here that had some bullet marks in it, which I did not discover until I was there the second time, however.

Q. Tell us about them.—A. Mr. Garza showed me that when I was there the second time.

Q. Where were those, from the Fourteenth street side?—A. Yes, sir; one of them entered the room at this corner, just above the floor [indicating].

Q. That is, the corner of Fourteenth street and the alley?—A. Yes, sir; Fourteenth street and the alley. It entered the floor and struck a chair after entering it, and went through the leg of the chair, and then struck a sort of a little dresser, and lodged in there, probably 10 feet from the wall. The other one came from a point over here, somewhere [indicating].

Q. When you say "over here," that is diagonally across the alley?—A. Yes, sir; diagonally across. That one struck the brick foundation of the house, and made quite an indentation there. That, however, was shown me the second time I was there. I did not see them the first time.

Q. Now, go to the Starck house, marked "6."—A. The Starck house had marks of, if I remember, four or five bullets. These bullets were fired from a point about here [indicating].

Q. When you say "about here," that is in Washington street?—A. In Washington street, about halfway between the house and Thirteenth street; possibly a little nearer the fence on the side of the house, from the middle of the street. These bullets entered the house higher up than they did in the Cowen house. They were about the tops of the windows. One of them entered the window, so Mrs. Starck told me at the time I investigated it—that is, the first time—and went through a mosquito bar over a bed. These bullet marks that I saw on the outside of these houses were all small-caliber bullets.

Q. Now, the Tillman saloon, did you make an examination there? That is called the Ruby Saloon.—A. Yes, sir; the Ruby Saloon. I examined that building, there. The first bullet hole which I saw there was in, I think, a brick partition running along here. The bullet had been fired from a point outside of the door, or possibly inside.

Q. That is, outside of the door, or possibly inside of the court, back there?—A. No, sir; in the alley, I think. At any rate, it had been fired diagonally into this wall.

Q. That is, diagonally from east to west?—A. Yes; from east to west. Mr. Tillman and his barkeeper told me there that that was the bullet that killed the bartender.

Q. That was their judgment about it?—A. Yes, sir; that was their judgment about it. This bullet was about 3 feet from the ground, possibly a little more or less. Then, I saw the marks of bullets down at this end of the saloon [indicating].

By Senator OVERMAN:

Q. The Elizabeth street end?—A. The Elizabeth street end. One of the marks was very near the corner; near the northwest corner.

Q. The northwest corner of the building?—A. Yes, sir; I remember at the time wondering whether it could possibly have come through the door, because there was a partition running right along there, making a sort of a room there.

By Senator FRAZIER:

Q. You mean through the door opening into the alley?—A. Yes, sir; from this point, down here [indicating]. I remember wondering whether it could possibly have gotten there without striking this point, which it did not seem to have done.

By Senator OVERMAN:

Q. You mean the partition separating the court from the saloon proper?—A. Yes, sir; there was a stairway up there, I think, somewhere. At any rate, there was a partition there. I think it went clear up to the ceiling. I think there was a door going into a room, or going upstairs. I do not remember.

By Senator WARNER:

Q. That room you speak of, or stairway you speak of, was on the north side of the—A. I believe there was a stairway back there, too; possibly it was the only one.

Q. Go on.—A. This hole was in the wall right near the northwest

corner. Then, there was another bullet hole in a lot of boxes, which were about in this locality in the west end of the building [indicating]. I think these boxes had beer bottles and things of that kind in them. Then, there was another bullet hole in the window, which was about the west end of the building. They told me that this bullet had lodged in a post on the other side of the street, in front of Crixell's saloon, which was over here somewhere [indicating].

By Senator FRAZIER:

Q. You did not examine that to see?—A. No, sir; I did not examine. I think I went over and looked at the bullet hole, but I do not remember whether I looked at it.

By Senator WARNER:

Q. In that bullet hole, that bullet that was lodged in the north-west corner of the Tillman saloon—A. It did not lodge there. I think it went clear through.

Q. It went clear through?—A. Yes, sir.

Q. That would have had to have been fired from the court—inside of the court?—A. I remember that with me it was a very doubtful point whether it could have been fired from outside, and I did not determine accurately whether it had come from outside or not.

Q. Or the inside?—A. Or from the inside.

Q. Now, take the Porter house.—A. The Porter house, the house occupied by the agent of the railroad, is up here [indicating].

Q. Yes.—A. There were no marks of any bullets on that.

Q. No; I think not; now I come to think about it.—A. No. There was a mark of one bullet which I saw on a house across the street from the Starck house. That was Mr. Turk's house. I saw where a bullet had gone through a paling fence, and had struck the foundation of the house, about here [indicating], and made an indentation. That was a small-caliber bullet.

By Senator OVERMAN:

Q. Was there any bullet in the Thorn house?—A. I did not examine them. Doctor Thorn told me there were one or two bullet holes in the back of his house. I do not remember examining them. I may have done so.

By Senator WARNER:

Q. Did you then or at any time go with Doctor Thorn to examine and extract any bullets?—A. Yes, sir; I went with him to examine a bullet hole in the office building and wholesale commission house building, on the lower floor, which was across Thirteenth street from the Miller Hotel. A bullet had entered a side door on Thirteenth street and had struck the brick wall on the Elizabeth street side of the house and penetrated the bricks there. Doctor Thorn showed this to me one day—I think it was the day before I left the second time I was there—and tried to probe for the bullet. I think he worked at it half an hour, and took out two or three bricks, but could not find the bullet; and I thought that it had glanced from the first brick which it struck and gone into the mortar between the bricks, and that was the reason why it had penetrated so far. As I remember, this first brick which it struck was pulverized, broken up, indicating that it had been a very high-power rifle which fired the bullet.

Q. Major, from your experience as an officer in the Army, and in inspections, did you then form an opinion as to whether or not that shooting had been done by high-power guns?—A. I did.

Q. What was that opinion?—A. My opinion was that it had been done by high-power guns.

Q. Did you entertain any doubt of that?—A. No, sir; I did not.

Q. Going to the second time you were there—during the first time you were there did you meet Captain Macklin and talk to him?—

A. The first time?

Q. Yes.—A. Yes, sir.

Q. You talked with all of the officers?—A. Yes, sir; and I talked with all of them privately, as well as together.

Q. And you talked with the noncommissioned officers?—A. Yes, sir.

Q. Now, in your talk with either the commissioned officers or the noncommissioned officers, did you at any time attempt to prevent their telling you anything they knew, giving you any information they had?—A. No, sir; I made no motion whatever, nor did I say anything to indicate that they could not talk to me fully and freely.

Q. The fact of it is that you were very solicitous to have them talk?—A. Yes, sir; I wanted them to do it. I wanted to get the facts of the case.

Q. You got there on the 18th, I believe you said, and you were there until what time?—A. Until the 4th of September.

Q. The 4th of September. In all the time you were there did Captain Macklin tell you anything about finding cartridges at the mouth of the alley leading into Garrison road, the alley between Washington and Elizabeth streets?—A. No, sir; to the best of my recollection he never said anything to me about it at all. I do not recollect hearing anything about it.

Q. That would have been a matter that would have impressed itself upon your memory, if it had been told you, would it not?—A. Yes, sir.

Q. Neither Captain Macklin nor Major Penrose ever told you anything about that?—A. To the best of my recollection, neither of them did. It is possible Major Penrose may have said something about it, but I have no recollection whatever of it, and I think I would have remembered it if he had. It is true that when I was making that first inspection I did not attach as much importance as I possibly should have done to the shell discoveries and the clips. But I considered my evidence sufficiently plain without that for my finding. From all that the officers had told me themselves, and from all that the citizens had told me, I was so thoroughly convinced of the fact that the shooting was done by soldiers that I did not look into that matter of the shells and the bullets found.

Q. I see your report is dated the 29th day of August, and you left there the 4th of September. I will get you to state, during the time you were there what attracted your attention, if anything, as to the women and children being out upon the street during that time?—A. I noticed that there were very few women and children on the streets at any time, night or day. I do not believe I saw a dozen women on the streets while I was there, the first week I was there.

Q. Did you not at that time also learn, Major, that many of the women—the families there—at nights had gone across to Mata-

moros?—A. Yes, sir; I heard that from quite a number of persons, and when the troops left I went with them down to the railroad train and saw them off, and when I came back through the streets I noticed crowds of women and children on the streets everywhere. It struck me at once as being very remarkable, indicating the sentiment of the women and children on the subject.

By Senator FRAZIER:

Q. That is, that they were afraid?—A. That they were afraid, while the soldiers were there, to go out.

By Senator WARNER:

Q. You met, as undoubtedly you will be asked, one Captain McDonald, there?—A. Yes, sir.

Q. Did you form an opinion as to whether he was a discreet citizen?—A. I formed the opinion that he was not a discreet citizen.

Q. Now, that was your first visit. When did you return to Brownsville, Major, the second time you went there? When was that?—A. Oh, the second time I went there was, I think, the 27th of December. I arrived there, I think, the 27th of December, in company with Mr. Purdy, the assistant to the Attorney-General.

Q. That is, last December?—A. Yes, sir; last December. I was there four or five days.

Q. Did you then continue your investigation as best you could?—A. Yes, sir; I aided Mr. Purdy in the investigation. He made the examination of witnesses, and I hunted them up in the town, with the aid of Mayor Combe and Mr. Kleiber, the district attorney, and Mr. Kowalski, who was the county clerk.

Q. That is, when you say "hunting them up," you mean finding the witnesses and having them report?—A. Yes; I hunted them up, and at the investigation I gave them the oath, and Mr. Purdy conducted the investigation himself.

Q. From that investigation and the facts that you may have learned, if any, additional—there are some that you have spoken of—was there anything to change your opinion as to the parties who did that shooting—that is, as to whether it was done by soldiers or citizens?—A. No, sir; there was nothing whatever. In fact, it simply confirmed my opinion.

By Senator OVERMAN:

Q. Have you read the testimony before the court-martial?—A. No, sir; I have not.

Q. You were not present, and you did not hear the testimony?—A. No, sir.

Q. Were you present?—A. No, sir. I know some of it. I know what it was, from what I read in the newspapers; but the witnesses were not allowed to be present, and I did not read the record afterwards, although I might have done so.

Q. From what you have heard since have you had any reason to change your mind?—A. No, sir; I am not in doubt in any way.

By Senator WARNER:

Q. You have already stated that you remained there until the battalion left?—A. Yes, sir.

Q. And you continued there how long afterwards?—A. The battalion left on the 25th of August and I stayed there until the 4th of September.

Q. And after that did you notice any marked change in the number of people on the street?—A. Yes, sir; right along; a great difference.

Q. I will get you to state, from your information of the citizens there, after the night of this shooting up of the town, whether or not there was a state of dread or fear upon the part of the women as to a renewal of the attack.—A. There undoubtedly was a feeling of great dread among the women.

By Senator FOSTER:

Q. You went to Brownsville, as I understand, without any bias or prejudice whatever, to search for the truth and to get the facts in this case?—A. Yes, sir.

Q. And after your conversations and interviews and conferences with the officers of the battalion and with prominent citizens of the place and the observations that you made yourself as to the shooting into the houses, you were convinced that this shooting was done by the members of the battalion?—A. Yes, sir.

Q. That was your deliberate judgment after you had made these observations and these investigations?—A. Yes, sir; that was my judgment in the matter.

Senator FOSTER. That is all.

Senator WARNER. That is all I care to ask.

By Senator FORAKER:

Q. What time did you leave Washington for Brownsville, Major?—A. You mean in December?

Q. No, sir; I mean the first time you went to Brownsville.—A. I was at Oklahoma City when I received the order.

Q. You went from Oklahoma City?—A. From Oklahoma City; yes, sir. I left there on the 16th of August.

Q. Had you at the time when you left Oklahoma City been made acquainted with the character of the telegrams that were being sent from Brownsville to the War Department in regard to this shooting and who had done it?—A. No, sir; I did not know anything about any telegrams at all. I only knew the order that I received.

Q. What were those orders?—A. The order was in the form of a letter.

Q. Has that been put in evidence anywhere?—A. I do not think it has, sir.

Q. Can you furnish it, so that we may incorporate it in our record?—A. Can I get it?

Q. I say, can you furnish it to us?—A. Yes, sir; I can get a copy of it at the headquarters of the Southwestern Division.

Q. Whose order was it; who issued the order?—A. It was issued by General McCaskey—by his order.

Q. He was the department commander?—A. He was the division commander.

Q. The division commander?—A. Yes, sir.

Q. And you went there upon his order?—A. Yes, sir.

By Senator FRAZIER:

Q. Signed by whom?—A. By General McCaskey.

By Senator FORAKER:

Q. At what time did you leave Oklahoma City? Is that where you said you were?—A. Yes, sir. I left there, I think it was, at noon of the 16th.

Q. Noon of the 16th, and you arrived in Brownsville the evening of the 18th?—A. Yes, sir.

Q. You had no prejudice whatever against this battalion of soldiers at that time, had you?—A. No, sir.

Q. On the contrary, if you had any special opinion about it, it was one altogether favorable, was it not?—A. It was.

Q. Up until that time you had never heard anything to the prejudice of this battalion?—A. I had never heard anything at all.

Q. It was noted, was it not, as one of the best battalions in the Army?—A. I do not know that it was noted as one of the best, but I had the impression, from what I heard before this investigation, that it was a good battalion.

Q. Well, I will ask you if you do not know that Company D of this battalion—Captain Lyon's company—had only two or three years before taken first honors over all the companies in the United States Army for drill, discipline, and efficiency?—A. I do not remember that, sir; but I know that I had the impression that it was a well-drilled battalion and a well-disciplined battalion.

Q. But you do not recollect the fact that I have mentioned?—A. No, sir; I do not remember that.

Q. You went there with the idea that it was well drilled and well disciplined?—A. Yes, sir.

Q. Now, except only this shooting affray, have you seen anything to the contrary, to change your mind in that respect, as to these men?—A. No, sir; I did not see anything while I was there to indicate that it was anything else but a well-disciplined battalion.

Q. Until this night their record was absolutely good?—A. Yes, sir; as far as I know, it was.

Q. And up to this time the conduct of these men had been absolutely good, had it not?—A. Yes, sir; so far as I know, it had.

Q. They have now been out of the service, discharged without honor, under circumstances that would lead them to make a complaint, since last November; and yet have you heard of a single one of these men anywhere in the United States deporting himself otherwise than as a good citizen?—A. I have not.

Q. So that, with the single exception of this night, their record remains just as good as you thought it was when you went there?—A. Yes, sir; so far as I know, it does.

Q. Yes; so far as you know. Now, when you got there it was about 6 o'clock in the evening, I understand you to say?—A. The 18th of August.

Q. Did Major Penrose know that you were coming?—A. I do not think he did.

Q. You did not send him any word that you were coming?—A. No, sir.

Q. And instead of going to the post you retired to the Miller Hotel?—A. I went to the Miller Hotel.

Q. And there registered and remained there all night?—A. I remained there all the time I was there.

Q. You remained there all the time you were there, until the 4th day of September?—A. Yes, sir.

Q. Which was some time after the soldiers had left?—A. Yes, sir.

Q. You did not wear your uniform while you were there, did you?—A. I did not wear my uniform except occasionally when I went over to the post. I had a reason for that. I wished to get the citizens to talk to me freely, and that was the only reason I did not wear a uniform.

Q. You wished to mingle with the citizens freely so as to find out just what idea was in their minds?—A. Yes, sir.

Q. And you did not wish them to know, as your uniform would have indicated, that you were a soldier?—A. Yes; they knew that right from the start.

Q. You told them?—A. Yes, sir.

Q. But the people generally, I mean. What advantage was there in leaving off your uniform if you told them as you met them, "I am Major Blocksom, of the United States Army?" Why might you not just as well have worn your uniform?—A. The people sometimes, those of a certain class at least, might be affected by the simple sight of the uniform. It might cause them to withhold their confidence. At least, that was my idea.

Q. Would not they withhold confidence from you if you told them you were an officer, whether you had a uniform on or not, if they knew you were an officer of the Army?—A. I do not think so.

Q. What?—A. I do not think so. I thought the fact of my not having a uniform on would remove that reason for withholding their confidence.

Q. Have you not testified in this matter that you left your uniform off in order that you might mingle with the citizens without their knowing that you were an Army officer?—A. No, sir; that was not my idea.

Q. If you are reported as having made that statement, it is a mistake, is it?—A. Yes, sir; I did not make that statement.

Senator WARNER. I do not think he made that statement.

Senator FORAKER. Well, there is a statement substantially to that effect somewhere.

The WITNESS. They all knew that I was an officer the first night I was there.

Q. You say they all knew it. The men you met no doubt knew it, but would not there be a great many people coming and going at the hotel, and would you not meet a great many people going about on the streets who might not know it?—A. I have no doubt there were many who did not know it.

Q. Did you have any object in leaving off your uniform except to induce people to talk more freely?—A. No, sir.

Q. Although they knew you were an officer, you thought they would talk with you more freely if you were not in uniform?—A. A part of the citizens; yes, sir.

Q. A part of the citizens?—A. Yes, sir.

Q. You did talk with the citizens freely, did you not?—A. Yes, sir.

Q. Especially with the leading citizens?—A. Yes, sir.

Q. You talked with Captain Kelly, did you not?—A. Yes, sir.

Q. How long after you arrived in Brownsville was it before you had an interview with Captain Kelly?—A. I saw him the next morning.

Q. He was the chairman of the citizens' committee, was he not?—A. Yes, sir.

Q. And you attended a session of that committee, did you not?—A. Yes, sir.

Q. You attended the sessions of that committee repeatedly?—A. No; I did not attend the sessions repeatedly. I only attended this once, and possibly another time.

Q. I understood Captain Kelly to say that you attended a number of the sessions of the committee.—A. I may have seen members of the committee individually, but I did not attend any full session of it more than twice that I know.

Q. Then you did talk with Captain Kelly, who was the chairman of the committee?—A. Yes, sir.

Q. And with Judge Bartlett, who was a member of it?—A. With Judge Bartlett quite a number of times.

Q. And with Mr. Kibbe?—A. With Mr. Kibbe.

Q. And with Mr. Wells, who was a member?—A. Yes, sir.

Q. And with others whose names you have given us this morning?—A. Yes, sir.

Q. You practically talked with all of them?—A. Yes, sir.

Q. And it was your business to do that?—A. Yes, sir.

Q. You were trying to find out what the truth was?—A. Yes, sir.

Q. The first night you were there you talked with the proprietor of the hotel about it?—A. Yes, sir.

Q. And with his wife?—A. Yes, sir.

Q. That is, you talked with Mr. and Mrs. Moore, of the Miller Hotel?—A. Yes, sir; and I also talked with Mayor Combe.

Q. And you talked that same night with Mayor Combe?—A. Yes, sir.

Q. You met him at the post, however, in company with Major Penrose?—A. Yes, sir; I think he was in company with Major Penrose.

Q. I understood you to say a few minutes ago that you found him there.—A. Yes, sir; I found Mayor Combe there, and I found Major Penrose there, too, but whether it was right at the time I first met Mayor Combe or not I don't remember.

Q. But did you or not meet Mayor Combe the first night you were there?—A. I did.

Q. And before you saw Major Penrose?—A. I think it was before I saw Major Penrose.

Q. Where was it, at the hotel?—A. No; it was at the gate of the post.

Q. At the gate of the post?—A. Yes, sir; that is my remembrance.

Q. How did you happen to meet him there?—A. He was there for some purpose or other, I don't know what, talking, I think, with the officer who was in charge of the guard.

Q. As you were going in?—A. As I was going in.

Q. Can you tell us about how many of the citizens you talked with the first night you were there, before you saw Major Penrose?—A. I don't remember now, probably half a dozen.

Q. Probably half a dozen. Can you give us the names of any except only Mr. and Mrs. Moore of the Miller Hotel?—A. I think I talked with the clerk.

Q. Mr. Davis?—A. Mr. Davis; yes, sir.

Q. And anybody else?—A. I am pretty sure I talked with a ranger, one of the rangers.

Q. Who was he?—A. I don't remember what his name is now.

Q. He belonged to Captain McDonald's command?—A. To Captain McDonald's command; yes, sir.

Q. Was it the captain himself, or one of his men?—A. No; it was not the captain himself, one of his men.

Q. Right there, how were these rangers dressed?—A. They were dressed in uniform which somewhat resembled the soldiers' uniform.

Q. A sort of khaki?—A. Yes, sir; whether it was a real khaki or not I am not certain.

Q. They wore leggings, too, didn't they?—A. Yes, sir; they wore leggings, but I don't think they were the same. They were something like officers' leggings, except that they were of leather.

Q. In that same connection, do you remember how the policemen in Brownsville were dressed at that time?—A. Yes, sir; they wore a uniform, but it was more like linen.

Q. It had the general appearance, in a general way, of khaki or something of that nature, hadn't it?—A. It was not so yellow as khaki.

Q. A little bit lighter?—A. More like linen, it did not have the consistency of khaki. It looked to be thinner.

Q. How much difference would there be in the appearance of one of these policemen's uniforms and the appearance of the uniform of one of these soldiers a hundred feet away from you of a dark night?—A. Of course it would depend upon how dark the night was.

Q. Would you be able to tell any difference at all at that distance away on such a night as this was?—A. It would depend a good deal on the gaslights or upon the lamplights.

Q. I am assuming that there is no light, just in the darkness of such a night as you learned that night was. Could you tell the difference, now, 100 feet away?—A. I don't believe I could.

Q. Could you tell the difference 20 feet away from you, without the aid of some kind of light, on such a night as this was?—A. I am not certain as to whether I could tell it or not.

Q. Ten feet?—A. I really don't know.

Q. You don't know?—A. I did not try.

Q. You did not experiment?—A. No, sir.

Q. Now, getting back to where we were, if I can, you talked not only with these members of the citizens' committee, but with the leading and most representative citizens of Brownsville generally, didn't you?—A. Yes, sir; I talked with quite a number of them.

Q. Now, Major, what did you find to be the state of mind of those leading representative citizens, such as Captain Kelly and Judge Bartlett, and others, with respect, in the first place, to the coming of these soldiers to Brownsville?—A. They were generally of the opinion that these troops should never have been sent to Brownsville.

Q. They so expressed themselves, did they not?—A. Yes, sir; they did.

Q. All of them?—A. All of them, as I remember. Of course they may not all have done it.

Q. Captain Kelly did particularly, did he not?—A. I don't remember whether he did particularly or not. My remembrance is that he did.

Q. Have you stated in your testimony that you remembered that Captain Kelly was outspoken on that subject?—A. I think not.

Q. I may not be using exactly the language you employed.—A. I know the general sentiment among the better class of the citizens of Brownsville was that the soldiers should not have been sent there.

Q. Why should not they have been sent there?—A. Well, I don't know whether it was because of any personal prejudice they had themselves, or whether they thought that it would be a bad thing for the community on account of the real feeling or prejudice or dislike to the colored soldiers by people of the lower class.

Q. What conclusion did you come to as to the cause of this trouble, I mean the primary cause of it?

Senator FRAZIER. Do you mean the cause of the shooting?

By Senator FORAKER:

Q. Yes; what led to it? What was the primary cause?—A. My opinion was that it was because of the fact that the soldiers had had trouble with Texas troops before; that they knew that the colonel of the regiment did not want to come down there on account of possible prejudice against them. Then, there were several circumstances which I narrated in my report, which aggravated any ill feeling which might have existed.

Q. You are speaking now, Major, if you will excuse me, of details. I want the general idea of the trouble. In other words, was it racial?—A. It was racial.

Q. You so stated in your report, didn't you, or in your telegram?—A. Yes, sir; I did. It was in my belief, racial only—that is, that that was the original cause of it.

Q. That is, if it had not been for racial prejudices, there would not have been any trouble?—A. No, sir; I don't think there would.

By Senator OVERMAN:

Q. Do you mean to say that the shooting up of the town of Brownsville was on account of racial trouble?—A. That was the cause that led to these incidents that I have related.

Q. Not to the shooting, but to the incidents?—A. Yes, sir; and the incidents themselves, of course, directly caused the trouble.

Q. If it had not been for the incidents, they would not have shot up the town?—A. Oh, no; not through racial prejudice alone.

Q. Was the racial prejudice on the part of the colored men against the white people?—A. It was, as shown by the result.

By Senator FORAKER:

Q. At page 38, of Senate Document 155, is your telegram of August 20 from Brownsville to The Military Secretary, United States Army, Washington, D. C. You commenced as follows:

Causes of disturbance are racial.

You are still of that same opinion, are you, Major?—A. Yes, sir.

Q. (Reading:) "People did not desire colored troops here." Now, that statement, "People did not desire colored troops here," was

based on what you learned from such men as Captain Kelly?—

A. Yes, sir.

Q. And Judge Bartlett and Mr. Kibbe and others, prominent men who constituted the citizens?—A. Yes, sir.

Q. You talked with all of them?—A. Yes, sir.

Q. Did you hear anybody say that the people wanted the soldiers to come there in the first place?—A. What do you mean; wanted the Twenty-fifth?

Q. Yes; I mean the colored soldiers. Did you hear anybody saying they wanted the soldiers to come there?—A. No, sir; I did not.

By Senator PETERS:

Q. Was it your opinion that the division of the groceries had anything to do with the ill feeling?—A. What, sir?

Q. The making of different counters for the people to drink at; did that, in your opinion, have anything to do with this riot?—A. Yes, sir; I think it had.

By Senator FORAKER:

Q. A while ago I asked you if you had not referred to Captain Kelly as one of the men with whom you talked and from whom you learned that the people did not want the soldiers to come, and I then had reference to what I now read to you. I asked you if you did not so testify. I now call your attention to what is reported as your testimony, at page 607 of the proceedings in the Penrose court-martial:

Q. Let's take up the second conclusion: "The people did not desire the colored troops and thought they should not be sent here. I learned this *before* the rumored abandonment of Brown from prominent citizens, members of the committee of safety, etc." Can you remember anyone that gave you that information?—A. I think that nearly all of them that I examined gave me that information. I can't remember any particular one, but I know that there were quite a number of them. I can't place any particular one, because there were so many that I don't remember who they were.

Q. Were they of the leading men, such as the mayor, Captain Kelly, who was on that committee, or what class of citizens was it?—A. I think all classes of citizens told me that. The reason that I remember this more particularly is that after I heard that Brown was to be abandoned I found rather a different sentiment in town.

That is correct, is it?—A. Yes, sir.

Q. And you so testified then, and you so testify now?—A. Yes, sir.

Q. I understand you to say that Captain Kelly did tell you?—A. As I say there, I don't remember who told me in particular, but I know that the majority of them did tell me, expressed that same thing.

Q. You talked with Captain Kelly on that very subject?—A. I certainly did talk with him on that subject, but I don't remember now what he said particularly; that is, I can not pick him out among the others.

Senator LODGE. He does not say that Captain Kelly said it.

By Senator FORAKER:

Q. We shall see if he does not, when we read the rest of it.—A. It is possible Captain Kelly never said a word to me about that, but my belief is that he as well as all the others that I spoke to did tell me that. I know that the majority of them told me, although I can not pick out any particular one.

Q. You did not hear anything to the contrary?—A. I never heard anything to the contrary. Now, as far as the class of citizens

whom I have just referred are concerned, I do not mean to say that Captain Kelly or Judge Bartlett or any of those citizens said that they disliked the colored race at all. They simply said they did not think it was a good policy to have them there, to send them there. It was the lower class of people who gave me the idea that they were individually prejudiced against the negro.

Q. You spoke a while ago about the colonel of the regiment not wanting to go there.—A. Yes, sir.

Q. And about some difficulty concerning Camp Maybury?—A. Yes, sir; I think that is in the beginning of my first report.

Q. That is mentioned in your report. Do you know what that trouble was?—A. Well, I heard that the cause of it was that some Kansas troops had either imagined or known that some of the Twenty-fifth Infantry had used real bullets in a field maneuver up at Fort Riley, I think, the year before, and it was said that the Texas troops—it was Texas troops instead of Kansas troops who imagined that they had been fired on—it was said that those Texas troops at Camp Maybury were going to use bullets in turn, if they had a chance. Exactly where I heard that, I don't know. I think it was some officers.

Q. Was there not a correspondence about it?—A. I think there was.

Q. Between Colonel Hoyt, commander of the Twenty-fifth Regiment, and the commander of that division, or with the War Department?—A. I don't remember now. I don't know what it was, really. I heard it at the time, and I knew there was that feeling between them.

Q. Where could we get that correspondence?—A. I don't know. I got this from the officers, and Major Penrose told me about the protest of Colonel Hoyt against the troops coming down to Texas.

Q. There was a protest?—A. Yes, sir.

Q. By Colonel Hoyt?—A. Yes, sir.

Q. Against sending this battalion to Texas and the other battalion to Fort Ringgold?—A. Yes, sir.

Q. Where did the third battalion go?—A. There were some of those troops sent to Fort McIntosh.

Q. Fort McIntosh I should have said a moment ago. This was the First Battalion, wasn't it?—A. Yes, sir; this was the First Battalion—Companies A, B, C, and D.

Q. A Company was not with them?—A. A Company was up at Fort Washington.

Q. And was it the Second Battalion at Fort McIntosh?—A. I don't remember which one, sir. One battalion was at Fort McIntosh and the other was at Fort Bliss.

Q. And Fort Bliss is also in Texas?—A. Yes, sir.

Q. Do you know whether those soldiers of this battalion knew anything about this trouble, about their going to Camp Maybury?—A. I only know what the officers told me, and they told me they did.

Q. That the men knew it?—A. Yes, sir.

Q. The officers told you that the men knew that?—A. Yes, sir; that that was one cause of their ill feeling toward the people down there, that they were not allowed to go there.

Q. What officer told you that?—A. I don't remember now. I think Major Penrose himself, for one, and possibly one or two of the other officers.

Q. Now, Major, let me refresh your recollection. It may be that I am in error, but I think you testified that the soldiers themselves did not know anything about it. At page 607—

Senator WARNER. Well—

Senator FORAKER. Well, Senator—

Senator WARNER. I have not said anything.

Senator FORAKER. You were about to say something. If you want me to, I will turn to the particular answer each time.

Senator WARNER. I do not insist on that at all.

Senator FORAKER. The Major is a very intelligent witness. I am not going to call his attention to anything that he did not testify to. [To the witness]. Referring to the record, at page 607, let me read to you this, which purports to be your testimony before the Penrose court-martial:

Q. The first thing that I want to bring your attention to is your report of August 29, under the head of "Causes." Your first conclusion was that "the soldiers heard they were not to go to Camp Mabry because Texas troops had threatened to use ball cartridges against them in maneuvers." Do you remember whether any of the soldiers themselves told you that they knew about this?—A. No; I don't think they did; I think the officers only told me that.

Q. That information was based on what?—A. On what the officers told me.

Q. It says "They knew that Colonel Hoyt made a request that the Twenty-fifth Infantry be not sent to Texas." Was that based on what the officers said?—A. Yes, sir. I don't think any soldiers told me that at all.

Q. In so far as you knew, this information was possessed by the officers and not by the enlisted men?—A. I don't know, except the officers told me; the enlisted men didn't.

Q. Are you sure of that?—A. I am positive of it.

Q. Who told you that?—A. I don't remember what officers; I think two or three of them. I know I based my report on what was told me at that time, although I can't remember where the particular conversation occurred which gave me that information.

Q. What I am trying to get is whether or not you got this direct from the enlisted men?—A. No; I never got it from the enlisted men; I don't think any of them told me.

Now, Major, that is correct, is it?—A. That is correct; yes, sir.

Q. That is what you stated, and that is what you have endeavored to state now?—A. Yes, sir. The officers alone gave me the information about it.

Q. So that what you said in your report on that subject, namely, that the soldiers had heard this, was based on what the officers told you?—A. Yes, sir; the officers told me that that was one of the causes of the ill feeling between the soldiers and the people.

Q. You did not get fairly to work on your investigation at the fort with the officers and the men until the following day?—A. No, sir.

Q. Then you prosecuted it very vigorously for the rest of the time that you were there, until they left?—A. Yes, sir.

Q. Did you come to the conclusion that any particular individuals were guilty of this shooting, or were you in the dark as to who the men were?—A. My opinion was that the sentinel on No. 2—Private Howard, I think it was, of D Company—could not have helped seeing who did that shooting, for one.

Q. He would necessarily have seen it if it had occurred as you are satisfied it did occur?—A. Yes, sir.

Q. He was in just such a situation that he could not have helped seeing it?—A. Yes, sir; in my judgment.

Q. And if he swears that he did not see it, necessarily he has sworn falsely?—A. It seems so to me.

Q. That seems so to you, and the fact that he would swear that he was there at the very point where you locate him and did not see anything of the kind would indicate he was swearing falsely?—

A. Yes, sir.

Q. That would not affect your opinion at all, would it, that he would deny seeing anybody there, when you knew that he was in a position where he could not help seeing it—that would not change your opinion?—A. Of course there is a possibility that he might be telling the truth, but my belief is that he lied.

Q. Do you think there is anything more than a probability that he was telling the truth?—A. I think there is a possibility of it only.

Q. You do not think it probable that he was telling the truth?—A. No; I do not think he was telling the truth.

Q. He was before us as a witness, and examined and cross-examined very thoroughly.—A. Yes, sir.

Q. And you examined him there did you not?—A. Yes, sir; I examined him.

Q. Did you come to the conclusion that he was swearing falsely?—A. Yes, sir; I did.

Q. Why didn't you have him arrested?—A. I recommended him to be arrested, and I recommended—

Q. He was, in fact, arrested, was he not?—A. He was arrested afterwards; yes, sir.

Q. Did you not say in your report and in various reports that although he had been arrested, there was practically no evidence to show guilt on his part?—A. There was no evidence against him except that probability.

Q. Now, let me go a little further. Did you meet the scavenger, Matias Tamayo?—A. Yes, sir.

Q. He also was in a position where he would necessarily have seen the men, would he not?—A. Yes, sir.

Q. And if he has sworn that he was and did not see anybody, he, too, was swearing falsely?—A. That is my opinion.

Q. You think he swore falsely?—A. I do.

Q. He was before the committee and was examined and cross-examined and nobody has arrested him yet for perjury.—A. No; he was not arrested. I recommended the district attorney to arrest him, but it never was done. He never was arrested. Nobody ever arrested him.

Q. Nobody ever arrested him?—A. No, sir.

By Senator OVERMAN:

Q. That is, assuming that he was in the position he says he was?—A. Yes, sir. However, his evidence on another occasion was different.

By Senator FORAKER:

Q. How different?—A. In the first place, he said he was at the sinks, and the sentinel there, this same Howard, said that too, but in the evidence before Mr. Purdy he said he was at the corner of the barracks—the northwest corner.

Q. Well, now, there was quite a difference there. Where did he testify that he was at the sinks?—A. He told me that in the first place, and then he said so in the first affidavit which he made, which is in those reports somewhere; I believe it is Mr. Gilchrist Stewart's letter. At any rate, it is the first affidavit he made.

Q. We will pass that for the present. I will look it up and see. Now, whether he was at the sinks in rear of B barracks or whether he was down opposite the kitchen where the garbage barrel stands, he would have been in a situation to have seen, would he not?—A. Yes, sir; in either case he should have seen.

Q. Can you imagine any point he could have had it in his mind to make, if he testified at one time that he was at the sink and then changed to the other point? Where is the sink? About where I point [referring to the map]?—A. The sink is about opposite the center of the barracks.

Q. And back near the wall?—A. Yes, sir.

Q. And this point which we have marked, at which he located himself, just in rear of the west end of B barracks, is about how far from the sink, as you remember?—A. About 100 feet, I suppose.

Q. Let me see if it is a hundred feet. He was back from the end here something like 10 or 12 feet, was he not, as he states, and the barracks were only 150 feet long, were they not?—A. One hundred and seventy, I think.

Q. One hundred and fifty feet; and halfway would be 75 feet, so he would be 65 feet on a straight line.—A. It is about there, of course, that it was [indicating].

Q. Well, he was in front of the sink, was he not?—A. Yes, sir; he was in front of the sink.

Q. How wide is the sink?—A. The sink is only about 8 or 10 feet wide.

Q. And his cart was out in front of that?—A. Yes, sir.

Q. And whether he was in front of the sink, as you say he testified first, or whether he was at the point he located himself when he testified here, would not make any difference in what he could see, would it?—A. It would not make a great deal of difference, I don't believe.

Q. If he were at either of those places and there had been firing from the upper gallery of B barracks, he would necessarily have seen it, would he not?—A. He could not have seen that firing from the point which he gave as his position the second time.

Q. Let us see.—A. That is, he might not have seen it if the persons firing had been back on the porch.

Q. He said his cart stood at the point he indicated, in the rear of the barracks, and he was by the side of his cart loading it, and he was looking—well, it would be towards the north.—A. My impression is that those cans stood right close to the barracks.

Q. He could not get between the barracks and the cans with his cart?—A. No, sir; I don't think he could.

Q. His garbage wagon would be standing outside of the garbage barrels?—A. Yes, sir; but, as I remember it, he testified that he was out here somewhere [indicating].

Q. That is where Mr. Purdy located him; but when he was here he corrected it and located himself where we have marked him. Now, sometimes, in your experience, you have noted discrepancies in

the statements of men when written down?—A. Yes, sir; very often; honest discrepancies.

Q. And truthful men?—A. Yes, sir.

Q. Now, we have two men who must necessarily have known about this, if it occurred in the way you indicate; and if they say they do not know, they must necessarily have sworn falsely?—A. Yes, sir.

Q. Now, that is true of a great many other men, isn't it?—A. It is true—

Q. The sergeant of the guard was in a situation where he should have known about it, should he not?—A. Yes, sir; in my opinion, he was.

Q. And he ought to have known, and you think he did?—A. I think he did.

Q. And you think he swore falsely?—A. I do.

Q. And the corporal of the guard who was on duty, Corporal Wheeler, who was awake and in charge of the relief that was on post, he must have known?—A. I don't know whether he did or not; at least I have heard nothing to indicate that he knew anything about it, and the only reason I had for supposing the sergeant of the guard was guilty from the fact that he ordered the sounding of this call to arms on his own authority.

Q. You have testified that he ordered it on his own authority, and you now testify that again, do you?—A. Yes, sir. That is what he told me.

Q. When you made your report you stated that?—A. Yes, sir.

Q. Since then have you not learned that Major Penrose himself ordered the call to arms sounded?—A. I have never yet learned that Major Penrose's order got to the sergeant.

Q. Did you not learn from Major Penrose's testimony that he ordered the call to arms sounded?—A. I know from his testimony that he sent word by, I think, a member of the guard, to the sergeant of the guard to sound that call, but the call was sounded, as I understood it, before the order reached the sergeant of the guard, and that agrees with what the sergeant of the guard told me.

By Senator FRAZIER:

Q. Did the sergeant of the guard himself tell you that he had the call to arms sounded without authority?—A. He told me that he did it by his own authority.

By Senator FORAKER:

Q. If the sergeant of the guard was ordered by Major Penrose to sound the call to arms, that would change the situation entirely as to him, so far as sounding the call to arms was concerned, would it not?—A. It would to a certain extent.

Q. It is in the evidence, is it not, and you have personal knowledge, have you not, from Major Penrose himself, that he did direct that the call to arms be sounded?—A. Yes, sir.

Q. And did it before the call to arms was sounded?—A. Yes, sir; he did.

Q. Now, that being the case, he thinking it the proper thing to do, to sound the call to arms, would you find fault with the noncommissioned officer in command of the guard for giving the same order, if he had not received the order?—A. Major Penrose had that call

sounded because he was informed that the people of Brownsville were shooting into the post.

Q. Was he informed of that?—A. He was informed of that.

Q. By whom?—A. By this man, by whom he sent the order to the sergeant of the guard.

Q. Who was that man?—A. I think it was a man named Hairston, who was a member of the guard.

Q. Hairston was a sentinel on guard, was he not?—A. Yes, sir; I believe so.

Q. What did he tell Major Penrose?—A. My remembrance is that he told him that the people of the town were firing into the post, and Major Penrose himself either told me, or I think it is in his evidence somewhere, at least my remembrance is very strong that he thought the people of the town were firing into the post.

Q. Assuming that Sergeant Reid on his own authority ordered the call to arms sounded, what is the fact that leads you to have suspicion as to his guilt? Was there anything else he did?—A. There was nothing else, and of course it is possible that he is perfectly honest in what he did. I did not think so at the time.

Q. He was a good soldier, was he not?—A. I believe he was a good soldier, had a good character.

Q. Had a good record?—A. I think so.

Q. At any rate the call to arms was sounded, and that is the only thing that you criticise the sergeant of the guard for at all?—A. Yes, sir.

Q. Well, notwithstanding what Major Penrose has testified to, do you still think that the sergeant of the guard is probably guilty of participating in that shooting?—A. Well, I have had my opinions modified on that subject since. I believe it is possible and probable that he may have been telling the truth about the matter, and may have sounded this call through an honest desire to help defend the fort.

Q. That is to say, that you have come to the conclusion now that the sergeant of the guard probably had no—A. That he might have been perfectly honest.

Q. Did he do anything at all, except order the call to arms sounded, that gives you any right to throw any suspicion on him?—A. No, sir; he did not.

Q. You are an officer in the United States Army, and he was a noncommissioned officer?—A. Yes, sir.

Q. Of long service and good record?—A. Yes, sir; I believe he is.

Q. Now, Major, is it not true that an officer ought to be careful about casting aspersions on a soldier, of such a character as your insinuation amounts to?—A. I think I was perfectly justified in making it.

Q. You thought so at the time?—A. Yes, sir.

Q. But you do not think so now, do you?—A. I say now that my opinion is now that there is more of a chance that he might be perfectly honest.

Q. And you do not know of anything—A. I know of nothing beyond the fact that he did sound that call to arms on his own authority.

Q. You do not know of anything to justify any criticism of him except only that he ordered the call to arms to be sounded, as you

thought, prematurely?—A. Yes, sir; and it is an unusual fact for a colored noncommissioned officer to take authority of that kind into his own hands, more than it is for a white soldier.

Q. I could not hear the last of that.—A. I say it is more unusual for a colored noncommissioned officer to take such authority as that into his own hands than it would be for a white soldier—that is to say, they are more afraid of responsibility.

Q. Well, is not the rule the same for the colored noncommissioned officer as for the white officer?—A. Oh, yes; the regulation is the same.

Q. He was an old soldier, was he not?—A. Yes, sir.

Q. Was it not his duty, if he thought the post was being attacked, to sound the call to arms?—A. It was.

Q. That was his duty?—A. Yes, sir.

Q. So that if he thought the post was being attacked, he did not do anything except what was right, even if he did order the call to arms sounded?—A. He did perfectly right, if he thought the post was being attacked, if he was honest in his opinion.

Q. We will not count him, then, as one who necessarily committed perjury; but if these soldiers went out and shot up the town in that way which you indicate, somebody else must have had complicity in the affair. How many were there in this party, according to your finding?—A. I judge there were from—I think I said, say nine to fifteen.

Q. And each man had a gun presumably, and none of them could have gotten his gun, except out of the gun racks. I suppose?—A. Yes, sir; if the gun racks had been properly locked, and the noncommissioned officer in charge of quarters had properly attended to them, seen that they were locked and properly looked after.

Q. It was the duty of the noncommissioned officer in charge of quarters at each one of these barracks to see that the gun racks were locked, was it not?—A. Yes, sir; to see that they were locked, and that the right number of rifles were in them.

Q. And it was his duty?—A. Yes, sir.

Q. Now, the men who raided the town, if these men did it, would have to get the guns out of these racks in some way. Could they do that without the noncommissioned officer in charge of quarters knowing that they were engaged in this conspiracy, we will call it, for the want of a better name?—A. It is possible, but not probable.

Q. Well, each one of the noncommissioned officers in charge of quarters, that is to say, the noncommissioned officers in charge of quarters in D barracks, in B barracks, and C barracks, have sworn that the guns were all in their racks, and that the racks were locked, and that they were in possession of the keys, have they not?—A. I believe they have.

Q. So that at least one of these men must have sworn falsely in that respect, if the keys were not there?—A. No; it is not absolutely certain that they swore falsely. The gun racks might have been broken into during the night. These noncommissioned officers can not see these racks all the time.

Senator WARNER. I simply make the suggestion whether that is a proper line of examination.

Senator FORAKER. I think it is a perfectly proper line of examination. I want to call the attention of this witness to the number of men who must have committed perjury in this case, if his theory of this is true. I want to see if that will have any effect—

Senator WARNER. It is directly contrary to all my knowledge of the law of evidence.

Senator FORAKER. Oh, well, I will withdraw it upon that suggestion.

Senator WARNER. Yes; I think you will.

Senator FORAKER. If by that suggestion that "you think I will," you mean to suggest that I think I am wrong, I say no; because I think I am absolutely correct.

Senator WARNER. You may govern your action as you see fit.

Senator FORAKER. But I think this is something that is entirely competent for me to do in the way I am doing it. As far as the strict rules of evidence are concerned, we pay little attention to them here. You ask for hearsay testimony here and I do not object to anything, and I never make any objection to the form of a question.

By Senator FORAKER:

Q. Now, Sergt. George Jackson was in charge of B Company quarters, that night, was he not—was the officer in charge of quarters?—

A. Yes, sir.

Q. If any of their guns were taken out of the racks and used by these raiders, he must have committed perjury when he testified as he did, didn't he?—A. That is only a matter of opinion, because he might have known it or he might not. As I said, these racks might have been broken into without his knowing it.

Q. Did you ever hear of the racks in B barracks being broken into?—A. No, sir.

Q. You did hear of the C Company racks being broken into?—A. Yes, sir.

Q. And you had more suspicion of C Company being participants in this than you had of either of the other companies?—

A. Yes, sir; simply because the men of that company had had more trouble in the town than any other.

Q. That is to say, Newton had been hit over the head with a revolver?—A. Yes, sir.

Q. And, as you thought, treated more drastically, to use your expression, than he should have been treated?—A. Yes, sir; and there were several other men, too, of that company.

Q. And that led you to suspect that C Company was probably more liable than anybody else, and you had other reasons for thinking that C Company was more liable, hadn't you—that is, the fact that their gun racks were broken open?—A. Yes, sir; the fact that one gun rack was broken up, and I afterwards heard that there was more than one.

Q. But you learned later, did you not, that Major Penrose ordered the gun racks broken open?—A. Yes, sir; I did.

Q. There is no doubt about that in your mind, is there?—A. No, sir.

Q. If anybody went out of either of those companies, then, with

guns, or with his gun, he must have gotten it out of the rack either through the neglect or through the connivance of the officer in charge of quarters?—A. Well, I don't know whether he did or not. It is possible he might have got the rifle out in some other way. Some of the men in the company may have had their rifles—some of the non-commissioned officers, possibly—outside of the quarters; may have been given their rifles. I do not think they were, though.

Q. Don't you know there is positive testimony by each of the non-commissioned officers in charge of quarters that every gun was in the rack?—A. Yes, sir.

Q. You know that is positively stated?—A. I don't know, but I was under the impression that that was true.

Q. That is set forth in the affidavits that you yourself submitted to the Department.—A. There is another possibility, that the men may have got duplicate keys in some way, taken an impression of the lock; but my belief is, however, that the noncommissioned officer in charge of quarters, if the rifle racks are not shown to be broken, was either guilty through knowledge or through neglect.

Q. This shooting could not have been done if they had not got their guns out in some improper way, could it?—A. No, sir; it could not.

Q. So that everybody who swore that the guns were all there and were not taken out at all must necessarily have sworn falsely?—A. Not necessarily have sworn falsely. They might have taken them without their knowledge. Racks sometimes are open during the day a good many times. The noncommissioned officer in charge of quarters may have counted them wrong—may not have made the right count. There are possibilities, of course, that they were honest, but the probability—

Q. I am talking about what is a probability to the point of at least approximate certainty.—A. Yes, sir.

Q. It is the duty of these noncommissioned officers to see that these guns are all there?—A. Yes, sir.

Q. And to keep the gun racks locked?—A. Yes, sir.

By Senator OVERMAN:

Q. You mean that is simply the regulation?—A. Yes, sir; that is the regulation.

By Senator FORAKER:

Q. And the practice, too, was it not?—A. It is practiced, as a rule.

Q. In a battalion such as this was, would the noncommissioned officer in charge of quarters be liable to severe punishment if he opened gun racks without authority or allowed the men, without authority, to take their guns out of the racks?—A. He certainly would be.

Q. He would be punished very severely, wouldn't he?—A. Yes, sir; but I know that men are often careless during the daytime about those things.

Q. Do you not know, also, that each one of these noncommissioned officers in charge of quarters has testified specifically as to whether or not his gun racks were open during the day?—A. I believe they have, not only before the court-martial, but before the committee.

Q. Everywhere?—A. Yes, sir.

Q. So that there is no escape from the conclusion that they had knowingly testified falsely?—A. That some, at least some one of them has. At least the probabilities point strongly to it.

Q. Well, it does not affect your opinion that the soldiers did this shooting up of the town; that all these people whom I have named have necessarily sworn falsely, if you are correct?—A. I don't think they have all of them necessarily sworn falsely, but it would not change my opinion.

Q. It would not change your opinion?—A. No, sir; I am positive the shooting was done by the soldiers.

Q. Yes; you are positive of that. That is what I want to find out, how positive you are. You are so positive that you would believe all these people have committed perjury, to whom I have made reference?—A. I do not believe that they have all committed perjury.

Q. Which ones, now?—A. I don't know which ones, or whether any of them have. They may have done it through neglect.

Q. Howard committed perjury, you tell us?—A. I believe he did.

Q. You think he did?—A. I believe he did.

Q. You think he did?—A. I believe Howard committed perjury and I believe the scavenger committed perjury.

Q. You think Tamayo committed perjury?—A. Yes, sir. As to the sergeant of the guard, I am in doubt more than I was.

Q. You are in doubt?—A. Yes, sir; but as far as these noncommissioned officers in charge of quarters are concerned, I believe that some one or more of them are guilty.

Q. Which ones?—A. I don't know. I know that the guns were out and I know that the shooting was done.

Q. You know that because you believe the testimony?—A. Because I believe the testimony.

Q. You have no personal knowledge, have you?—A. Of course not.

Q. You know the shooting was done by somebody?—A. Yes, sir.

Q. We all know that, and we know they were probably men.—A. Yes, sir.

Q. And that they had clothes, hats, belts, cartridges, and all that sort of thing.—A. Yes, sir.

Q. But the question of identity is the only question there is, whether it was the soldiers or somebody else, and on that point, when you say you know that the soldiers did it, you mean that you so thoroughly believe the testimony that was given to you that you have not any doubt about it?—A. Yes, sir; it is like the moon revolving around the earth. I do not know that personally, but I know people who do know it, and have said so.

By Senator OVERMAN:

Q. Not only from the testimony, but from what you saw with your own eyes at Brownsville?—A. Yes, sir.

By Senator FORAKER:

Q. What did you see with your own eyes in Brownsville?—A. Of course, I saw the marks of the bullets and heard the evidence on it.

Q. The mere marks of the bullets would not of necessity show that the soldiers did it, would they?—A. No; the mere marks of the bullets would not show it, but the testimony confirming the fact that the soldiers did it is very convincing to me.

Q. The whole thing taken together makes you know it?—A. Yes, sir.

Q. You told us about these bullet marks that you examined?—A. Yes, sir.

Q. First you told us of the bullet marks in the Yturria house?—A. Yes, sir.

Q. The house marked No. 7 on the map?—A. Yes, sir.

Q. How long is this L in the rear, if you can tell, the narrow portion running back?—A. I should say that was probably 35 or 40 feet. It may be less, however.

Q. That long altogether?—A. Yes, sir; that is, the L part.

Q. All these four bullet holes were through that L part, were they not?—A. Yes, sir.

Q. And you say they were about as high as 10 feet from the ground, the highest one?—A. Two of them, I am sure, were 10 feet from the ground.

Q. About 10 feet?—A. The third I don't remember whether that was higher or lower. I think it was a little higher.

Q. That was nearer the end, was it not?—A. No; the third one was nearer the corner.

Q. Up nearer the main part of the house?—A. Yes, sir.

Q. Where was the fourth one?—A. The fourth one was the one in the ceiling of the dining room.

Q. That went through the roof?—A. Yes, sir. That roof sloped towards the road.

Q. About how high from the ground would be the eaves of that portion of the house, the L?—A. They would be very nearly as high, or possibly as high as this lintel, and possibly a little higher.

Q. Is the lintel right up under the eaves?—A. They must have been higher.

Q. The eaves?—A. The eaves were higher; yes, sir.

Q. Than the lintel?—A. Yes, sir; because I remember looking through this groove.

Q. What I refer to is the eaves, the projection of the roof.—A. Yes, sir.

Q. Is not the roof extended over the lintel?—A. No, sir; it did not go over the lintel. There was something above the lintel.

Q. What was there?—A. I don't remember what it was. It is possible it may have projected right over the top of the lintel, but I could not see the eave at all when looking through this groove. I know that.

Q. I want to look through that groove with you directly. You did not see the eaves then at all?—A. No; it was higher than the lower part of the lintel. I know that.

Q. Let us take up the holes in the order in which you describe them. The first one which struck the lintel, as I understood you to say, that was about 9 or 10 feet from the ground?—A. I think it was 10 feet from the ground.

Q. Did you measure it?—A. I did not.

Q. How high is the floor of that from the ground?—A. The floor, as nearly as I remember it, is about 2 feet from the ground.

Q. How high is it above the floor, from the floor to the ceiling?—A. I don't remember exactly, I know that I got up on the railing, and

I imagine that railing is, I should think, 3 feet or possibly more than 3 feet high.

Q. And you got up on that?—A. I got up on top of that and looked through this groove, and I think I had to stoop a little to look through it.

Q. You had to stoop a little, and you are about how high?—A. About 5 feet 9 inches in my shoes.

Q. So it is about 10 feet, you think, from the ground?—A. That would make it very nearly 10 feet from the ground.

Q. How did that bullet appear to strike the lintel?—A. My remembrance is—you mean with regard to its direction?

Q. Yes; did it strike it perpendicularly?—A. I think it struck it diagonally slightly, but nearly perpendicularly.

Q. Haven't you testified that it struck perpendicularly?—A. I think I said nearly perpendicularly. My impression is that it was slightly inclined that way, but not much.

Q. That is, the truth of the matter is it struck the underside, did it not?—A. Barely struck it, and made, I think, a semicircle where it entered.

Q. And then passing beyond or downward, left the lintel altogether and went through the wall?—A. Went through the wall; yes, sir.

Q. How high is this fence, this wall in front of the house?—A. Do you mean this wall?—

Q. The garrison wall?—A. I think about $3\frac{1}{2}$ or 4 feet high.

Q. It has been testified here that it was $4\frac{1}{2}$ feet, I think, at that point.—A. I never measured it. I don't remember.

Q. What kind of a top has that wall?—A. As I remember it, it was plaster, but I am not certain of that.

Q. How wide is it?—A. It is about a foot or a foot and a half, I should think.

Q. Flat on top?—A. Flat on top.

Q. A man could stand on top of it without any trouble?—A. Yes, sir.

Q. And a man standing on top of that wall could shoot over that fence without any trouble?—A. Yes, sir.

Q. Fire or shoot into that house?—A. Yes, sir.

By Senator WARNER:

Q. In that way?—A. I did not say that with reference to these shots at all.

By Senator FORAKER:

Q. I am asking you now is it not true that a man standing on the wall opposite that house could have fired that shot into that house?—A. I do not think it is possible.

Q. What would be the trouble about it?—A. He would not be high enough.

Q. If the wall is $4\frac{1}{2}$ feet high, as it has been testified here that it is by a man who says he measured it, as I understand—I am not sure that he said he measured it, but he certainly said it was $4\frac{1}{2}$ feet high—a man standing on top of that would be high enough, would he not, to shoot into that house?—A. I think not. I don't think he would be anything like high enough.

Q. How high would a man be standing on top of a $4\frac{1}{2}$ -foot wall?—

A. The height of that bullet—that groove—was, say, 10 feet from the ground. It was descending—the bullet was—when it made the groove. The distance from that porch to the wall is, I should say, 100 feet.

Q. From what porch?—A. From that Yturria porch.

Q. To the garrison wall?—A. To the garrison wall.

Q. Well, let us see. The Garrison road is 30 feet wide.

Senator LODGE. I thought it was 40.

Senator FORAKER. No; 30 feet wide, and then over the wall of the house would be 40 feet.

A. I don't think that drawing is accurate, because this distance is a great deal more than that—twice that.

Q. That is furnished by the War Department, and it is supposed to be at least in a general way correct.—A. That distance from there to there [indicating] is, I should say, 75 feet, at least.

Q. Suppose it is 70 feet.—A. Because I remember there is a big cistern outside there, in between.

Q. Let me ask you something else. It may help us out of that. What is your knowledge as to the effect upon the course of a bullet of its coming in contact with timber or any other obstruction? Is it or not likely to deflect it?—A. It is, to a certain extent, apt to deflect it.

Q. Does it not sometimes deflect it to an astonishing extent?—A. It does under certain circumstances.

Q. Depending on how it strikes the object?—A. Yes, sir.

Q. When one of those high-power projectiles comes out of the rifle and strikes something at short range, it is generally tumbling, is it not?—A. It generally causes it to tumble more or less when it strikes.

Q. Does it not tumble before it strikes? Does it not tumble as it goes through the air?—A. The bullet?

Q. Yes.—A. No, sir; not unless there is some defect.

Q. Does it not have an unsteady motion?—A. No, sir; it has a pretty accurate motion; pretty direct.

Q. Well, does not the deflection of the bullet depend upon whether or not the point is going straight?—A. The rotation of the bullet latterly causes it to keep in a direct line. Of course there is a certain drift, but there is no tumbling. Tumbling is going end over end forward.

Q. Does it never tumble until it strikes something?—A. It does not, unless there is some defect in the bullet to start with, or in the rifle.

Q. We will have to rely on you to tell us about this, because we do not know about these high-power projectiles.—A. If the cartridge is perfect and the rifle is perfect there is no tumbling.

Q. Did you ever experiment to find out whether or not a bullet is deflected when it strikes something, or to what extent it will be deflected?—A. I have noticed that the bullets are often deflected by striking.

Q. Is it not a fact that when it strikes, the bullet may go up or go down or go to the right or go to the left?—A. There is no question about that.

Q. Nobody can tell which way it will go.—A. It depends on how it strikes.

Q. Nobody can tell which way it is going?—A. No.

Q. Is not the fact that it may go either way due to the fact that

it strikes in a peculiar way; that is to say, that the bullet is not going straight forward, but is being affected by the rotary movement? That is what causes it to deflect, is it not?—A. Yes, sir.

Q. So that when you fire a bullet at a house at 100 feet away from you you can not tell whether, when the bullet enters the wall of the house, it will go straight through on beyond and through the next wall, or whether it will turn upward or downward or to the right or to the left?—A. No; you can not tell, because it may strike some obstruction inside that you do not know anything about.

Q. Is it not true that when it strikes any obstruction, it at once, if it is going to be deflected at all, takes upon itself that deflection?—A. It might do it right at the first contact.

Q. So small a thing as striking the lintel there might deflect it, might it not?—A. I do not believe it would in that case, because that bullet was going at a very high rate of velocity, if it was fired from the porch or from the wall.

Q. Does the velocity at which it is going have anything to do with the way in which it strikes?—A. Yes, sir; when you consider the substance which it strikes. That wall, that lintel was, I think, of pine, and was of the same consistency throughout. If that bullet had been fired from the wall and it struck the edge of that lintel, my opinion is that it would have gone up.

Q. Your opinion is it would have gone up?—A. Yes, sir; it would have gone up, because that was its direction.

Q. But it might have gone down, might it not?—A. I am not prepared to say. It might go down, but I do not believe it would.

Q. It all depends on the deflection of the bullet.—A. I do not think it would go down, if fired from a point lower than the lintel.

Q. It is true of every other bullet hole you have mentioned, is it not, that there may be this deflection?—A. Yes, sir; it may be.

Q. So that whenever you undertake to get the range of a bullet you have to allow for deflection, do you not—possible deflection?—A. Do you mean without obstruction?

Q. I say whenever you undertake to get the range of a bullet by looking along the groove or the hole that it has made you have to run the risk of being misled by deflection?—A. Oh, yes; you have got to consider the distance from which the bullet is fired.

Q. You think this map is not correct?—A. No, sir; I do not think it is correct.

Q. From the representation it makes of barracks B?—A. Yes, sir.

Q. If the map is correct, that bullet you have been talking about could not have been fired from the eastern end of B barracks?—A. I do not believe it could.

Q. It would not have reached that point?—A. From my recollection of that groove it pointed off of that barracks as it stands on that map.

Q. It pointed off of B barracks, not as it stands on the map—A. As I remember, it went just about that way [indicating].

Q. And you were sighting along the groove and locating it about here [indicating]?—A. No, sir; about here [indicating].

Q. Near the eastern end?—A. Near the eastern end.

Q. Between the fourth and the sixth columns?—A. I think between the fourth and fifth.

Q. You located it there. Now, if this map shows that location correctly, it could not have been fired from that point, I understand you to say, could it?—A. It certainly could not.

Q. Let me call your attention to something else. Is there a large windmill or water tank or something standing there?—A. A cistern—a water tank—that is what it is.

Q. Is this a picture of it?—A. That is it.

Q. You know where that is?—A. Yes, sir.

Q. If this location of the barracks is correct, could this bullet reach the point where it entered that lintel, if fired from the barracks, without striking into that water tank?—A. The way the map is there?

Q. Yes.—A. Oh, yes; easily. The water tank was right up about here. My remembrance is that the barracks extend clear over that far [referring to the map].

Q. This points to a point immediately opposite the eastern line of the alley extended. Is that right?—A. Yes, sir. I am pretty sure that barracks goes clear to the end there.

Q. You are still of the opinion that if the barracks are correctly shown there, that shot could not have been fired from the barracks, as you have described?—A. I know I looked through the groove and saw the barracks.

Q. You looked through the groove and saw the barracks, but you have also told us that a man in looking through a groove must take the risk of being misled by the deflection. Is that correct?—A. I don't think there was any deflection at all laterally.

Q. You know that has been investigated by another brother officer, don't you?—A. I have heard so; yes, sir.

Q. Lieutenant Leckie?—A. Yes, sir.

Q. Who had no interest whatever in this controversy, not even to sustain a report, but was sent there by this division commander?—A. I don't know anything about what his testimony was, as far as that is concerned, and I do not care. I know what I saw.

Q. I know what you saw, too, because of what you tell me; but would affect your confidence in your opinion any to know that he went there with specific instructions to examine that very thing, and did so, and came back and testified both before the court-martial and here that that shot could not have been fired from B barracks?—A. My opinion is that he did not know what he was talking about.

Q. That is your opinion?—A. That is my opinion; or else he made a false statement, one of the two.

Q. Do you think he would make a false statement?—A. I do not know whether he would or not. I do say he is either mistaken or he has made a false statement.

Q. Then he is either guilty of being mistaken about a matter that he was sent as an officer of the Army specially to examine, or else he has come here and testified falsely? That is what you mean?—A. That is what I mean.

Q. Do you know of any interest he would have in this matter?—A. I do not know anything about it.

Q. That would lead him to testify falsely?—A. No, sir; I do not.

By Senator LODGE:

Q. We have here another map, which is also official. I should like to ask you whether the position of the barracks on this map is

more nearly correct, as you remember it? This map is in two sheets. This is a map of the town, and they join together. This is the Yturria house, and here is the alley, and here is B barracks, and of course extended there, B barracks comes up here over the edge of the alley.

Senator FORAKER. I do not think it does.

The WITNESS. I think that map was taken from this.

By Senator LODGE:

Q. From the big one?—A. I think they are the same map.

By Senator FOSTER:

Q. Regardless of the location of those buildings on that map, you know that when you looked through the groove in the middle of that house you could see the upper porch of barracks B?—A. Yes, sir; I know that, not only from what I saw when I was there the first time, but I looked through the same groove the second time I was there, and I had Mr. Garza, who was Mr. Yturria's clerk, do the same thing, and then I asked him where it pointed, and I think if you will look into my examination of his testimony you will find that point brought out. He is one of the two men that I examined.

By Senator FORAKER:

Q. Now, Major, supposing that book to represent the lintel, the shot, as I understand you, struck it not far enough up to make a hole in it, but simply knocked out a part of it?—A. Yes, sir; made probably a semicircle.

Q. Part of the bullet did not enter the wood at all?—A. No, sir.

Q. Just struck the lower edge of it. That is only a .30-caliber bullet?—A. Yes, sir.

Q. Thirty one-hundredths of an inch in diameter?—A. Yes, sir.

Q. So it would be a very slight groove, would it not?—A. Yes, sir.

Q. And that passed out of the timber altogether?—A. No; the groove kept growing smaller and smaller until at the end you could just see the mark.

Q. So that the path of the bullet was less than half the width of the bullet on the width of the lintel?—A. As I remember it, it was about a semicircle where it made the entry.

Q. And you got up on the railing and looked through this, did you?—A. I looked both ways. I got on the inside and looked toward the barracks, and then I got on the outside and looked into the building.

Q. That is, you got outside of the lintel and looked back into the house?—A. Yes, sir; to this bullet hole that was there below.

Q. And you were looking out toward the barracks when you saw the barracks?—A. Yes, sir; when I saw where it struck the upper porch.

Q. So that all you did was to get up and look into that groove that was made in that way?—A. Yes, sir.

Q. Now, if your eye was raised or lowered the slightest in looking through that, it would make a wide difference, would it not?—A. Well, of course, if your eye was raised too much you could not see through it at all, but if you raised it or lowered it a little from the extreme edge, of course, it would make quite a difference.

Q. Do you think that is an absolutely accurate test that you

made?—A. Well, it is not absolutely positive, but it shows the direction of the groove.

Q. It showed it to your satisfaction?—A. To my satisfaction it showed the direction of that groove.

(At 1 o'clock and 8 minutes p. m. the committee took a recess until 2 o'clock and 15 minutes p. m.).

AFTERNOON SESSION.

The committee met, pursuant to the taking of the recess, at 2.15 p. m.

Present: Senators Warren (chairman), Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF MAJ. AUGUSTUS PERRY BLOCKSOM—Continued.

By Senator FORAKER:

Q. Could you get your head up under the lintel far enough to see accurately through the groove?—A. Yes, sir.

Q. Explain how that lintel was arranged with reference to the roof and the ceiling of the porch.—A. I have forgotten about that. I remember that the lintel was about 3 or 4 inches through; that is, in a horizontal direction. Vertically, I think, it was a little more.

Q. That is, up and down it was—A. Probably 5 or 6 inches.

Q. Five or 6 inches?—A. Yes, sir; although I am not positive of that even. It may have been square, but I think it was as I have stated.

Q. But did not the roof extend out over this lintel? I do not know what the office of the lintel was there, unless the roof rested on it.—A. I have forgotten whether the roof was directly over the lintel or not. It may have been, but I think there was another piece of timber above the lintel. It is possible these photographs may show.

Q. I call your attention to picture No. 7, in part No. 2 of Senate Document 155. That is the Yturria house?—A. Yes, sir.

Q. I will ask you whether or not the piece running over the tops of the pillars is the one to which you refer?—A. Yes, sir; that is what I call the lintel.

Q. Will you indicate on that picture about where that was? Will you kindly indicate there about where that bullet struck the lintel?—A. I can not say between what pillars, but my impression is that it was probably between these two [indicating on photograph].

Q. That is the two next to the water tower, as shown in the picture?—A. Yes, sir; although it may have been between the other two [indicating].

Q. Between these other two?—A. Yes, sir.

Q. Now indicate on there about where, on the lintel, it struck.—A. I think it was about either there or there [indicating].

Q. That is on the top—A. No; right there [indicating].

Q. It struck at the lower part?—A. Yes, sir.

Q. It did not pass through the lintel?—A. No; just grazed it.

Q. And when you speak of looking along the groove—A. I do not

know whether it was between these two pillars, or these two [indicating]. I do not remember which.

Q. What you looked through was the furrow that the bullet ploughed on the underside of that lintel?—A. Yes, sir; of that lintel.

Q. You testified about seeing a bullet hole in Mr. Rendall's house?—A. Yes, sir.

Q. And I understood you to say that you thought it was fired, as nearly as you could make out, from some place either on top of the wall or outside of the wall opposite the rear of the center of D barracks?—A. Yes, sir.

Q. In your report I notice you say it was fired from the southwestern corner of C barracks.—A. Which?

Q. C barracks.—A. I made a mistake. I got C and D mixed up. It should have been D.

Q. It was not fired from up there, at all [indicating on map]?—A. No, sir; it was not fired from there, at all. I got the two letters mixed up.

Q. In your report it should have been D instead of C barracks?—A. Yes, sir.

Q. And you testify that way now?—A. Yes, sir.

Q. You could not tell, now, where that shot was fired from?—A. No, sir.

Q. But you located it out as far as the wall?—A. Yes, sir.

Q. And possibly out in the roadway?—A. Yes, sir; possibly in the roadway.

Q. And at the Cowen house, did you think that bullet ranged upward into the room or downward?—A. From my memory now I can not tell you: I do not remember. But from the fact of having made the report that it came from that end, I think I must have looked at the bullet and found that it ranged up.

Q. As far as your recollection goes, you can not tell us now whether it went upward or downward after it went into the room?—A. No, sir.

Q. But you know that it passed through?—A. Yes, sir.

Q. Coming down to the Cowen house, you examined that pretty carefully, did you not?—A. Yes, sir; pretty carefully.

Q. And you found it shot up?—A. Yes, sir.

Q. The bullet in the Cowen house, as I understand you, seemed to have been fired from the eastern side of the house?—A. From the alley, somewhere.

Q. From a point in the alley, on the east side?—A. Yes, sir.

Q. There were none at all fired into it from the Fourteenth street side?—A. I do not think there were.

Q. You examined, and did not find any?—A. No, sir.

By Senator OVERMAN:

Q. There is one question that I would like to ask you right there. Those three bullets in the Yturria house, did they all range downwards?—A. Yes, sir; they all ranged downwards.

By the CHAIRMAN:

Q. How many were there of those bullets? I know you testified to it before, but I would like to have that again.—A. There were

three. One of them lodged in the dining-room door, one of them was found out in the yard afterwards, so this Teofilo Martinez told me, and the other was picked out by Mr. Garza from the cover of the well.

By Senator OVERMAN:

Q. The course of all those bullets being downward, is it not convincing evidence that they were fired from an elevation? Is it not true that while one might have been deflected, the three of them all having that course downward, it is practically convincing evidence that they were all fired from an elevation?—A. It makes it pretty nearly convincing that they came from above, especially the one that dropped through the ceiling.

Q. All three of them ranged down?—A. Yes, sir.

Q. And while one might have been deflected, all three being deflected shows that they were shot from a higher elevation?—A. Yes, sir; that is my opinion.

By Senator FORAKER:

Q. One of them struck the water tower, did it not?—A. I think that the one that went through the ceiling struck that water tower. When I was there I did not know anything about that.

Q. Then, it struck the water tower and then went down through the ceiling?—A. Yes, sir.

Q. The water tower may have deflected it?—A. Yes, sir; it may have done so.

Q. Now, you secured one of those bullets?—A. I secured one while I was with Mr. Purdy, from the Cowen house.

Q. Yes; that was the one that was shot into the Cowen house?—A. Into the mirror.

Q. And fell down behind the glass in the mirror?—A. Yes, sir.

Q. And that is the one you produced in evidence as being secured by you?—A. Yes, sir. Well, it was given to me. The little girl handed it to me. But I saw this one in the bottom of this door.

Q. That bullet was very well preserved, was it not?—A. Yes; my remembrance of it is that it was only flattened at the base.

Q. I will hand it to you. It ought to be in that package, I suppose [handing package to witness]. Will you take it out and see if you can identify that as the bullet that was taken out of the Cowen house?—A. (After examining bullet.) No, sir; that is not the bullet that was taken from the Cowen house. As I remember it, this bullet was taken from the dining-room door of the Yturria house. I don't think that this is either of the bullets that I took from the Cowen house.

Q. If you will turn to your affidavit here, at page 162, part 2, of Senate Document 155, and read it, you will see what you say as to that. In this affidavit you tell where all three of these bullets came from. These are three bullets that were sent to the Senate by the President when he transmitted Mr. Purdy's report.—A. (After further examination of bullet.) This bullet I do not think is either one of the three.

Senator FORAKER. The bullet the witness is examining and talking about he has taken from an envelope marked as follows: "Steel-jacketed bullet received in evidence in connection with the affidavit

of Maj. A. P. Blocksom." That is on the inside envelope. The outside envelope says: "Bullet from Senate committee; Major Blocksom's affidavit." Here is something else on it: "Office of Chief of Ordnance," and then there are a whole lot of figures. I do not know what they are.

The CHAIRMAN. Does it say on the envelope that it came from the Yturria house?

Senator FORAKER. No; it does not say that on the outside of this envelope.

By Senator FORAKER:

Q. I have shown you your affidavit so that you can refresh your recollection about how the bullets are marked, and then you can tell us about that. Do you recognize that bullet?—A. My recollection of that bullet is that it was split at the nose.

Q. Of which bullet?—A. I mean the bullet that was taken out of the dining-room door of the Yturria house. This bullet resembles that.

Q. I supposed that was the bullet that was taken out of the Cowen house?—A. No, sir; this was not taken out of the Cowen house. This does not resemble that bullet at all.

Q. Then we will pass that by. You had better put that bullet back in its envelope.

(The witness returned the bullet to its envelope.)

Senator FORAKER. The bullet that the witness has been testifying about was in the envelope marked as I have just described; and also in the upper right-hand corner of the envelope is the figure "9" in lead pencil, with a circle around it.

By Senator FORAKER:

Q. Do you recognize that bullet at all?—A. The bullet which I took out of the dining-room door of the Yturria house had those black marks on it, like that, but I do not remember that the base was twisted that way; and as I remember the point, it indicated that there had been quite a pressure on the point, and it seemed to have split, instead of being cut in the way that is [indicating bullet].

Q. Put that bullet away, then, and open another envelope. [The witness did so.] You are now opening the envelope marked as follows: "Bullet from Senate committee, Garza testimony." On the inside is an envelope marked "8." Tell us what bullet that is?—

A. (After examination of bullet.) That is the bullet, as nearly as I can judge, that was given to me by Mr. Garza, which he said he picked out of the top of the well in the rear of the Yturria house, in the yard.

Q. You recognize that as the one that was taken out of the well?—A. Yes, sir.

Q. Now, please put it back in its envelope. [The witness did so.] Now, I call your attention to another bullet and will ask you to take it out of the envelope, which is marked on the outside "Bullet from Senate Committee; Cowen testimony." It is also marked on the inside envelope "7." Do you recognize that?—A. (After examination.) Yes, sir; I think that is the bullet that was taken out of the bottom of the inner door.

Q. Now, take these three bullets and lay them on their envelopes,

side by side. I want you to examine them again. Here is No. 7 and here is No. 8 and here is No. 9. I will ask you to tell me if they are all the same kind of bullets, Major?—A. (After examination of bullets.) I think they are.

Q. They appear to be practically all there, do they not?—A. Yes, sir.

Q. The one to which I call your attention, No. 9, is the most complete of the three, is it not; it is less mashed up and disfigured, is it not?—A. (After further examination.) No, sir; I should say No. 7 was less disfigured than No. 9.

Q. What has happened to No. 9?—A. The base is disfigured and twisted, and it is cut there, in the nose [indicating]. I must say that if this is the one that I picked out of that dining-room door, I do not remember that it was twisted.

Q. You do not recognize that, do you?—A. I am not positive about that, sir.

Q. Look at it closely and see whether or not, in your opinion, that is a Springfield, 1903 model, bullet or a Krag bullet.—A. (After further examination.) It looks to me as if it was less in diameter than the other two.

Q. Yes. It is, is it not perceptible to the eye?—A. It certainly appears so to me. It does not look to me like the bullet that I picked out of that door, though. I do not remember what marks were put on it.

Q. It is the one that was sent to the Senate with the President's message as being the one cut out of that door by you. But just by the naked eye you can see that it is a different size, can you not?—A. (After further examination.) It seems to me to be different.

Q. Yes. Can you not feel the difference in weight, also?—A. No; I can not tell. I must say that I would not have recognized that bullet at all as the one that I picked out of there.

Q. If it was a Springfield, 1903 model, bullet, what should it weigh?—A. I think they weigh 204 grains.

Q. Two hundred and twenty grains, is it not?—A. Yes; 220 grains. I would like to state that I do not believe that is the bullet that I picked out.

Q. You do not believe that is the bullet you picked out?—A. No, sir.

Q. It does not look to you like it?—A. No, sir.

Q. You see it is not the same size as the others, do you not?—A. Yes, sir.

Q. If you did pick that bullet out of that door, the bullet itself does not show that it was fired out of a Springfield rifle, does it, looking at the size of it?—A. It looks smaller, certainly, to me, in caliber.

Q. It is smaller, is it not, perceptibly to the eye?—A. Yes, sir.

Senator WARNER. You have the report here, and that gives the weight of it.

Senator FORAKER. Yes; it is all here. The report shows what it weighs. That is already in evidence.

The WITNESS. I do not believe that is the bullet I picked out.

By Senator FORAKER:

Q. You are quite positive of that, are you?—A. I am not absolutely certain of it, but I would bet on it.

Q. But it does not correspond to your recollection of it?—A. No, sir; it does not.

Q. Your recollection of the bullet you took out of the dining-room door of the Yturria house—was it the Yturria house?—A. The Yturria house; yes, sir.

Q. (Continuing.) Was split at the nose?—A. Was split; yes, sir.

Q. And you would not remember, I suppose, about the size of it?—A. As nearly as I can recollect, it was almost exactly similar to the other two. I thought all three were the same bullet.

Q. That is, that they were the same kind?—A. Yes, sir.

Q. But you can see, now, that they are not the same bullet?—A. This certainly looks different to me, and I do not believe that that is the bullet that I picked out of the door.

Q. Did you make any inspection at all, Major, while you were there, as to the ammunition?—A. No, sir; I did not.

Q. You stated before the military staff when you were investigated that you made no examination as to the ammunition account of the men?—A. No, sir; I did not.

Q. You assumed that the soldiers each had, among themselves, a surplus of ammunition?—A. Yes, sir.

Q. You had no knowledge on that subject, however?—A. No, sir; I had no knowledge.

Q. You just assumed that from your general knowledge of what the practice is in the Army?—A. Yes; from my general knowledge, and from what the custom in the service is in that respect.

Q. Are you aware that in April, 1906, all the old ammunition was taken up and new ammunition issued at the time when the guns were issued to these men?—A. I knew that the new ammunition was issued about that time.

Q. Are you aware that the officers have testified that their accounts of ammunition were carefully and accurately kept, and that the day after this firing they made a thorough examination, and counted this ammunition and found it all there?—A. Yes, sir; I am aware of that.

Q. Do you know what kind of ammunition Company C was supplied with at the time of this firing?—A. I heard something about their being supplied with what they call guardhouse ammunition.

Q. Guard ammunition?—A. Yes; but I did not investigate that personally.

Q. That is, reduced-range ammunition?—A. Yes, sir; a lead bullet.

Q. Are you aware that at Fort Niobrara each of those companies was issued 650 cartridges of that kind, reduced-range ammunition, and no more?—A. No, sir; I was not aware of that.

Q. You were not aware of it?—A. No, sir.

Q. And are you aware, or have you been up until this time, that Captain Macklin has testified that after he arrived at Fort Brown he took up all the ball ammunition that his company had, and issued them in lieu of that only this guard ammunition?—A. I heard

something about that, but I did not know that he had testified to it. I do not remember whether I heard it from him or from whom I heard it.

Q. And that after the firing every cartridge was counted and found there?—A. Yes, sir; I believe that is correct, although I do not know personally about it.

Q. And also that it has been testified that there was no place where that kind of ammunition could have been secured?—A. No, sir.

Q. You did not find any such bullets as those used—the guard ammunition—did you?—A. You mean—

Q. The reduced-range ammunition.—A. Outside, in the town?

Q. Yes.—A. No, sir.

Q. Do you know what kind of bullets there are in that guard ammunition?—A. Well, they are blunter than the ordinary bullet and I think shorter.

Q. Are they just like the other bullets in other respects?—A. They look a good deal like them.

Q. They do look like them?—A. Yes, sir; they have no steel jacket on them. They are simply lead.

Q. They have no steel jacket at all?—A. No, sir.

Q. So that if Company C had only 650 rounds of that kind of ammunition, and had no ball ammunition, and no steel-jacketed bullets before the firing, and had that ammunition afterwards, would not that be an important subject for you to take into consideration in investigating this matter?—A. The soldiers may have had ammunition which they concealed. They always do; and it has been my invariable habit to find soldiers with excess ammunition wherever I have been stationed and over whatever companies I have been in command. It is universal that soldiers always have excess ammunition, and keep it concealed. They do that for several reasons. Sometimes they may want to hunt, or they may want to make up a shortage that may occur at some future time. Soldiers are rather peculiar about making up shortages. They always have an idea that they must keep everything in excess, and they are especially prone to do that with regard to ammunition.

Q. Now, Major, of course almost anything is possible, and it may be, as you say, that it is possible that these soldiers may have secreted ammunition and improperly secured a surplus of ammunition; but if they all testify that they had no surplus, and their officers testify that they had no surplus, would that have any effect in changing your supposition in that respect?—A. Well, they are men under accusation. Of course, it has been absolutely proved (to my mind it has been) that some of the soldiers of that battalion did the shooting. If it was shown by affidavits and testimony of officers and men both, that they did not have anything else in their possession but these guardhouse bullets, of course it would be a presumption that that company was not implicated; but it would be only a presumption.

Q. Only a presumption, which would be overcome in your mind by the testimony that you heard to the contrary?—A. Of course Company C may have been innocent of the matter. I know some soldiers did it; that is all I know.

Q. Yes. And yet in your report you were inclined to the opinion, if I rightly understand what you say, that, however it may be with

the other two companies, C Company is the one that is especially guilty?—A. That was my opinion, simply because they had more ground for retaliation.

Q. Simply because this man by the name of Newton had been hit over the head with a revolver and another man by the name of Reid had been pushed off a gang plank into the river?—A. Yes, sir.

Q. The man who was pushed off the gang plank was pushed off the gang plank only the night before?—A. Yes, sir.

Q. You saw him?—A. Yes, sir.

Q. And talked with him?—A. Yes, sir.

Q. He seemed to be a good-natured man?—A. Yes, sir.

Q. And laughed it off?—A. Yes, sir.

Q. He did not show any resentment?—A. No, sir; none of the soldiers did.

Q. None of the soldiers did?—A. No, sir.

Q. Was not that rather a singular thing, that they were free from it?—A. It is a rather singular thing that they were free from resentment.

Q. Now, I do not want to interrupt you, but I want to ask you about Newton. Newton had really a pretty hard lick over the head?—A. Yes, sir.

Q. It cut his head open and knocked him down, and all that sort of thing?—A. Yes, sir.

Q. Did you talk with him about the circumstances?—A. I think I talked with him, although I am not certain about that.

Q. Do you not know that he denied having any feeling about it?—A. I know he denied having any feeling of resentment.

Q. Yes; he denied having any feeling of resentment; and he reported it to his officer, as was his duty?—A. He reported it to his officer.

Q. He talked with Captain Macklin about it?—A. Yes, sir.

Q. And his officer took it up with the parties and was investigating it?—A. Yes, sir.

Q. And Newton was entirely satisfied with that?—A. Yes, sir.

Q. He is a very intelligent man?—A. Yes, sir; I think so.

Q. He had been company clerk?—A. Yes, sir.

Q. And he understood the course that such investigations would take?—A. Yes, sir.

Q. Did he look to you like a man that would organize a conspiracy to go out and shoot up the town?—A. I don't remember how he looked.

Q. For a personal affront? Have you any impression on your mind at all about it?—A. My impression is that he said that he did not have any feeling of resentment in the matter; but whether I got that from him or from what I read about the matter, I do not remember.

Q. You do not remember?—A. Or possibly I got it from Captain Macklin.

Q. Captain Macklin spoke of him as a splendid soldier?—A. I do not remember about that.

Q. A good-natured and well-disposed man?—A. I do not remember what Captain Macklin said.

Q. Did you try to run that matter down at all, and find out what

the truth of it was?—A. I ran it down far enough to know, or to believe, at least, that these two soldiers were walking along the street, and that they were rude in going through this party of ladies, and possibly made some remarks, and that Mr. Tate stepped up and knocked one of them down with the butt of his pistol. I got the affidavits of Mr. Tate and of the ladies, and one or two witnesses there. I talked with Captain Macklin, and I do not remember whether I talked with Newton or not; but I was sure that it was a cause of the ill feeling—one of the causes of the ill feeling—and that is what I was after.

Q. You wanted to find out the cause of the ill feeling?—A. Between the soldiers and civilians.

Q. Do you know of any ill feeling on the part of the soldiers—any evidence of it?—A. I do not know of any expressed, on their part.

Q. Do you know of any acts of theirs, or of any of them, that indicated ill feeling on their part, or any intention on their part to avenge themselves in any hostile way?—A. I know of no intention, expressed or understood, before the act of their revenging themselves.

Q. Do you know of any after the act?—A. No, sir; I do not.

Q. Outside of the act itself?—A. No, sir; nothing at all. Of course I heard quite a number of things, but I did not believe them. I think a good deal of them was manufactured.

Q. Did you meet Mr. Wreford there—Samuel P. Wreford?—A. Yes, sir; I met him.

Q. What kind of a man did he impress you as being?—A. He impressed me as being a gentleman. I talked with him quite a good deal about the matter.

Q. He seemed like an active business man, did he not?—A. Yes, sir; he was a business man. He had a commission house, and I think he was in the insurance business.

Q. Did he seem to be a rather prominent man in the community?—A. I do not know whether he was prominent or not.

Q. Did he tell you anything about being opposed to the colored soldiers coming there?—A. Yes; he said that he had been opposed to it; and he said that he had written a letter, I believe, to the Secretary of War, or to Senator Culberson, about the matter; and he told me that he did not do this because he was unfriendly himself towards the colored race, but he thought their presence would be bad for the business of the town.

Q. Now, Major, passing that and coming back for a moment to this matter of resentment, you did not hear any resentment expressed by any of the men?—A. No, sir; I did not.

Q. Or hear of them expressing any?—A. No, sir; I did not.

Q. Before this firing?—A. No, sir.

Q. But you did hear resentment expressed by the white commissioned officers of the post, did you not?—A. Yes, sir.

Q. They were quite outspoken about it, were they not?—A. Yes, sir.

Q. They spoke in terms of praise of the soldiers and their conduct?—A. Yes, sir; they said that the soldiers had been ill-treated by the citizens of the town.

Q. Did you hear of any bad conduct at all on the part of the soldiers, except the Newton affair and the Evans affair?—A. I heard

some talk about their going on the streets in parties of three and four and taking possession of the street—not getting out of the road for people. That is about all I remember of.

Q. From whom did you hear that; from some citizens?—A. From some citizens, yes; I do not remember who told me that.

Q. As to the Evans matter, you did not talk with anybody but Mrs. Evans?—A. Both Mr. Evans and Mrs. Evans.

Q. I mean as to the facts of the case, as to the details?—A. I talked with Major Penrose.

Q. As to the details of the assault—from whom did you get the account of that assault?—A. I got it from Mrs. Evans herself.

Q. But you did not get it from anybody else?—A. No, sir. And her husband, of course, corroborated part of her statement, as much as he could.

Q. Major, it would have been impossible for from nine to fifteen men—that is the number, I believe, that you estimate—A. Yes, sir.

Q. To have done what was done in that town that night and return to their quarters, and to have evaded detection, unless they had had some preconceived plan which they carried out very carefully, would it not?—A. It seemed to me so.

Q. Why would they have a preconceived plan so as to evade detection?—A. Well, these slights and injuries which they had received may have caused them to get up a conspiracy, or it may have been only a short time before the thing happened that the idea struck them.

Q. Do you think they could organize a conspiracy of that kind and make all necessary arrangements with the officers in charge of the gun racks and with the sentinels on duty and go out and carry this out unless they had very great faculty for that kind of work?—A. It seems to me that they may have had only a short time to make up the plan and afterwards made up the plan for escaping detection.

Q. If they did it, the plan they had, if they had one, was well executed, was it not?—A. I think so.

Q. Did you ever hear of a conspiracy of this general nature, embracing so many men, being carried out without the individuals engaged in it leaving some clue as to their identity? Did you ever hear of such a thing?—A. I do not know that I ever did.

Q. And you would not expect soldiers of such uniformly good conduct as the soldiers of this battalion had always displayed to organize any such thing, would you?—A. I would not expect it of soldiers in an ordinary case; but my idea was, when I had gotten all the evidence in, that this was a race matter, and that the soldiers hung together on account of its being a race matter, and stuck together, and intended to do so through thick and thin, so far as they could.

Q. Only a very limited number of them were engaged in it, were they not?—A. Yes, sir; but I think a great many more must have known about it afterwards—must have learned of it.

Q. Did they know about it before?—A. I do not think they did. I think only a comparatively few knew about it, possibly only those engaged in it.

Q. Going back—it was your idea that they intended to do this secretly, was it not?—A. Yes, sir.

Q. And to keep all knowledge of it from everybody not concerned

in it?—A. Yes, sir. But while I believe it was preconcerted, it may have been executed with very little preparation.

Q. The shorter the time of preparation the less likely it is that they would have a well-laid plan, is it not?—A. Yes, sir.

Q. Now, if it was their purpose to proceed secretly and not let anybody know who was doing it, and they had a conspiracy to that end, how do you account for their commencing by firing off the back porch and by going out and shooting from in the neighborhood of the wall after they had gotten the whole town aroused?—A. My opinion is that the first shots were fired near the wall.

Q. The first were fired near the wall?—A. Yes, sir.

Q. About what place?—A. Well, about opposite the telegraph office.

Q. Opposite the telegraph office?—A. Yes, sir. I took the testimony of Mr. Rendall, and the operator, and McDonnel, and Mr. Martinez. All four of those indicated to me that the first shots were fired from somewhere about here [indicating].

Q. Inside the wall?—A. Inside the wall.

Q. Inside the wall, just to the right of the gate as you go out?—A. Yes, sir.

Q. And about opposite the telegraph office?—A. In there somewhere. Of course I could not tell exactly.

Q. How many shots did you conclude had been fired there?—A. I really do not remember now, but I think probably about twenty-five or thirty.

Q. Twenty-five or thirty fired from there?—A. Yes, sir.

Q. Then where were the next ones fired?—A. My idea was that then some of the men in the barracks who were aroused by this shooting and who may have thought they were being fired on, then fired from the porch of B Company barracks.

Q. So that you think there may have been some shots fired by some people—A. Who were not in the conspiracy originally.

Q. Not in it at all?—A. Yes, sir.

Q. Who just came out and shot because they thought they were being fired on?—A. Yes, sir.

Q. Thought they were being fired on, and just blazed away at the town?—A. Yes, sir.

Q. Then the men who would fire under such circumstances as that would not be particular to keep knowledge of it away from their officers and others, would they?—A. They would not be apt to under ordinary circumstances; but, as I said before, this was a race matter, and I think there was intense feeling about it.

Q. You examined Mr. McDonnel?—A. Yes, sir.

Q. And he said that he was in his house up on Adams street when the firing commenced?—A. Yes, sir.

Q. And four or five shots only were fired?—A. Yes, sir.

Q. And that he ran around the corner and came down to the alley between Elizabeth and Washington streets, and stopped there because he saw a lot of men down about the corner of Elizabeth and Fifteenth streets, close up to the Western Union building?—A. Yes, sir.

Q. On the Western Union side?—A. Yes, sir.

Q. And then they came up to the alley, he retreating when they approached, and when they reached the alley they commenced firing

again?—A. Yes, sir; they turned right into the alley and fired after they got in there, somewhere.

Q. Yes. He testified that he saw three shots fired over in the reservation as he was coming down Fifteenth street. You took his testimony, and you remember that?—A. Yes, sir; I took his testimony, but I do not remember his telling me that. He saw three shots from where?

Q. Over in the reservation, as he was coming down Fifteenth street.—A. He never told me that.

Q. I think you will find it in the testimony taken before Mr. Purdy.—A. Perhaps it is in there. He never told me that, I know.

Q. You talked with Mr. Howard, did you not?—A. Yes, sir.

Q. What did he say about firing his piece?—A. He went around to the front of the barracks and fired his piece three times.

Q. Three times?—A. Yes, sir.

Q. He held it up in the air and fired it?—A. Yes, sir.

Q. And called, "Corporal of the guard, No. 2?"—A. Yes, sir.

Q. He told Major Penrose that?—A. Yes, sir.

Q. And he told everybody else that?—A. Yes, sir; I think he is perfectly consistent in his statement.

Q. And the next morning at inspection he held out his gun and said that he had fired it three times and that it had not been cleaned?—A. Yes, sir.

Q. You think that he was in the conspiracy?—A. Yes, sir.

Q. And you think that he swore falsely when he said that he did not see anybody get over the wall?—A. Yes, sir.

Q. And that he did not see any firing in the reservation?—A. Yes, sir.

Q. And when he was on duty there, he heard shots fired from about the mouth of the alley?—A. Yes, sir; I think he was swearing falsely.

Q. You think that he was swearing falsely?—A. Yes, sir.

Q. And you think that Tamayo was swearing falsely?—A. Yes, sir.

Q. They were the two men of all others who were in a position to best see, were they not?—A. I think they were; that is, of the people on that side of the barracks.

Q. They were both men in good physical condition?—A. Yes, sir.

Q. With good eyesight?—A. Yes, sir.

Q. And they were in such a location that they could not have helped seeing it if there had been a lot of men moving along there?—A. Yes, sir.

Q. So that you get out of—so that you evade the effect of their testimony by simply disbelieving it?—A. Yes; I disbelieve it, because the preponderance of other evidence is against them.

Q. You have to disbelieve them in order to believe the others?—A. Yes, sir.

Q. I understand; that is perfectly consistent.—A. Yes.

Q. Now, if they were going out on a midnight raid to kill people, and had taken pains so as to avoid anything being known about it, why would they begin by firing from in the reservation and from the

porches of their barracks? Can you tell me?—A. They commenced firing, to start with, to alarm the garrison.

Q. Why would they want to alarm their comrades?—A. That was my idea, to start with.

Q. That they fired some shots over the garrison?—A. Yes, sir.

Q. You think there were some shots fired from the garrison?—A. Yes, sir; I think they fired them; those men right there.

Q. What is that?—A. I think those men right there fired them, who fired the first shots.

Q. The men who fired the first shots fired over the garrison?—A. Yes, sir.

Q. And you think that the soldiers did that firing over the garrison?—A. Yes, sir; and when I made my report I believed that the sergeant of the guard had the idea that when the call to arms was sounded that would put arms in hands of all of the men and that when these men who went downtown came back with their arms they themselves would not be subject to suspicion.

Q. So that you had that all figured out in your own mind?—A. Yes, sir; that was my supposition.

Q. That made the sergeant of the guard a very important factor in this conspiracy?—A. Yes, sir.

Q. But now you have modified your opinion about that, have you?—A. As I have said, it is possible that he was perfectly honest and innocent.

By Senator FRAZIER:

Q. That would have been a good way to prevent the discovery of those men who did the shooting?—A. That would have been a good way.

Q. To have concealed the men that came back armed with their guns in their hands.—A. Yes, sir.

Q. Now, Major, you sent a telegram to Captain Kelly or Mayor Combe from St. Louis, Mo.?—A. Yes, sir.

Q. On a certain date, asking for additional affidavits?—A. Yes, sir.

Q. Were you ever furnished with any affidavits in response to that telegram?—A. Never; but Captain Kelly telegraphed me that he had sent Senator Culberson some affidavits, and that he had asked him to let me look at them.

Senator FORAKER. I offer in evidence the telegram to which I refer, found on page 629 of the Penrose court-martial proceedings. It is dated St. Louis, Mo., December 4, 1906, and is addressed to Capt. William Kelly or Mayor Fredrick Combe, Brownsville, Tex. I will read it, for I want it in the record right here:

ST. LOUIS, MO., December 4, 1906.

Capt. WILLIAM KELLY or Mayor FREDERICK COMBE,

Brownsville, Tex.:

Am ordered to Washington on Brownsville matter. Desired, nearly as possible, length of time between first and last shots fired by raiders; about what time first shots were fired, and how long after first shots rolls were called, and whether roll calls were completed before last shots were fired; what kind of night it was; how streets of town and rear of barracks were lighted—gas, oil, or electric lights; how persons who saw raiders knew whether they were soldiers or citizens, black or white; where, when, and by whom cartridge shells, etc., were picked up next morning; how many, and what was done with them; distance from barracks wall to Tillman's saloon; kind of uniform policemen wore, etc. Wish affidavits of Mr. and Mrs. Randall, of telegraph operator, of

Martinez, Bolack, and Bolack's daughter. Baker, Moore, Borden, Chase, Odin, Canada, Starck, Madison, McDonald, J. P. Thorne, Elkins, all policemen, Mrs. Cowan, Mrs. Starck and their children (children important), Preciado, and other witnesses to shooting at Tillman's saloon. Any other evidence you think important or have discovered since. Nearly all the persons mentioned gave evidence (unsworn, I believe) before citizens' committee, a copy of which I have. Send affidavits to me at Army and Navy Club, Washington, and wire me there, collect, probable date of arrival of papers. If any expense, send me account.

BLOCKSOM, Major.

Q. Now, you say in response to that some affidavits were taken and sent to Senator Culberson?—A. I think some affidavits were sent to him, as well as the evidence taken before the grand jury.

Q. That was also sent to him?—A. Yes, sir.

Q. So that he has the grand jury evidence and also this evidence which you called for?—A. I think only the grand jury. It is possible he may have some additional affidavits.

Q. Why did you want further evidence at that time?—A. Because I was—if you will refer back a little you will see that I was—ordered to bring in affidavits with me, and I did not have any affidavit. I did not take any sworn evidence while I was there.

Q. And you wanted to supply that proof under oath?—A. Simply under oath; yes, sir.

Q. You already knew what kind of a night it was, for instance, didn't you?—A. Yes, sir; I knew all those things.

Q. What kind of a night was it?—A. It was a dark night.

Q. It was rather an unusually dark night, was it not, Major?—A. There was no moon until 4 or 5 o'clock in the morning, and even then it was, I think, in its last stages.

Q. You talked with people about the character of the night it was at the time?—A. Yes, sir; oh, it was a dark night.

Q. And the streets there, you knew they were poorly lighted?—A. Yes, sir; they were poorly lighted.

Q. What kinds of lights had they?—A. Lamps.

Q. About what candlepower?—A. I don't remember what candlepower they were.

Q. Did you have any doubt about the calling of the rolls as to whether they were concluded before the firing ceased, or were you asking simply so you might have it in sworn form?—A. I was simply asking for it in sworn form. Some of the people had testified about having heard the rolls called, or had told me.

Q. And about the shells, you wanted the information, I suppose, among other reasons, because you had not given any special attention to the shells?—A. No, sir; I had not.

Q. You came to the conclusion that the men were guilty because of what was told you by the citizens?—A. Yes, sir.

Q. And you did not rely upon the shells except only as they were confirmatory?—A. That is all. I did not rely on them at all in my original investigation.

Q. You paid no attention to them to amount to anything?—A. No, sir.

Q. That is the reason you did not ask Captain Macklin anything about the shells?—A. Yes, sir; I suppose that is one of the reasons, but I am certain that he never told me anything about having found the shells.

Q. Don't you know that Captain Macklin made a report to Major Penrose immediately after he found those shells, if he did find them?—A. Yes, sir; I learned that afterwards, but I did not know it at the time.

Q. You paid no attention to it at the time?—A. I did not know it.

Q. You were asked whether any of the officers disputed the guilt of the men—denied the guilt of the men—and I understood you to say that none of them did.—A. None of them did.

Q. The only approach to that was on the part of Captain Lyon, who said he did not think any of his men were guilty?—A. Yes, sir.

Q. Did you think any of his men were guilty of it at that time?—A. I did not see any direct evidence pointing to the men of his company any more than to that of the others.

Q. You saw no proof that Company D had anything to do with it at all?—A. Nothing direct.

Q. Did his statement that he was satisfied that none of his men had anything to do with it have any influence with you?—A. It had some influence with me, but not a great deal.

Q. Did that help you to the conclusion that Company C was principally guilty?—A. No; I don't think it did.

Q. You did not seem to think that Company B was so liable to be guilty as Company C, did you?—A. Well, I knew—at least I was sure—that those shots came from the porch of Company B.

Q. You were sure of that, after you looked through the grooves?—A. Oh, judging from cause to effect, I thought C Company was probably the most guilty.

Q. You thought they were more liable to be?—A. Yes, sir; more liable to be.

Q. Did you think there were a number of men from each of these companies, or did you think they were men in the same company?—A. My belief was that men of all the companies had more or less to do with it.

Q. You thought they were all guilty?—A. Although I thought more men of C Company were in it than any other, simply for the reasons that I have given.

Q. You thought the probability was stronger?—A. Yes, sir.

Q. There was no proof?—A. There was no proof. There was no proof against any company.

Q. Is it not true that Major Penrose and all the officers told you they did not believe their men were guilty at all, until Mayor Combe made the charge the following morning, and they brought the shells?—A. Oh, yes; that is very true. During the progress of the shooting, and afterwards that night, they all thought they were being fired on from the town.

Q. They had no idea that their men were engaged in it?—A. No; at first they had no idea that their men were doing the shooting.

Q. And you became satisfied that they were greatly surprised to hear that it was claimed that their men had anything to do with it?—A. I believe they were.

Q. They jumped to the conclusion, did they not, that the citizens had broken out in a hostile way on account of the Evans incident and some other matters?—A. Yes, sir; that is what they thought.

Q. You found that the people in the town were very greatly excited?—A. Yes, sir; they were.

Q. That day before the firing, on Monday the 13th?—A. Yes, sir.
Q. The Evans incident was on Sunday evening, the 12th, was it not?—A. Yes, sir; it was.

Q. And all day Monday there was great excitement among the people of the town?—A. Yes, sir.

Q. According to the results of your investigation of the subject?—A. Yes, sir.

Q. There is no doubt about their being in a rather inflamed state of mind, I suppose?—A. No, sir; there is no doubt whatever about it.

Q. And did you hear them threatening to do things to punish that kind of an outrage?—A. It seems to me that I heard that Mr. Cowen wanted to do something.

Q. Mr. Cowen was very anxious to do something. Was not Mr. Billingsley also very anxious to do something—Mr. Billingsley, the milkman, who has a dairy out near town?—A. I don't know, sir.

Q. You did not hear of him?—A. No, sir. Mr. Cowen is the only one that I heard anything about.

Q. Didn't you hear that Mr. Billingsley went into Crixwell's saloon when Captain Lyon and Lieutenant Lawrason and Captain Macklin were in there getting some drinks and made some inquiry?—A. Yes, sir; I did hear that.

Q. You did hear that?—A. I had forgotten, but that was so.

Q. And that was the afternoon of the 13th, was it not?—A. Yes, sir; I believe it was.

Q. That showed a great deal of ugly temper, as the story came to you?—A. Yes, sir; that came to me. I had forgotten what the man's name was.

Q. And you had heard a number of other just such things, hadn't you?—A. I only remember those two just now. It is possible there may have been others, but I don't remember it.

Q. You heard that the mayor, Doctor Combe, and Mr. Evans came up to the post and had an interview with Major Penrose about 5.30 o'clock on the evening of the 13th, and requested the Major to keep his men in after 8 o'clock, didn't you?—A. Yes, sir.

Q. And you heard that Mayor Combe told the Major if he did not keep his men in, he, as mayor, would not be responsible for their lives, did you not?—A. I did not hear that.

Q. Or for their safety?—A. No, sir.

Q. Didn't you know that?—A. I know that he wanted him to keep them in, but what further remarks he may have made, as to what would happen if his advice was not followed, I do not remember it.

Q. Don't you know that he warned Major Penrose that if he did not keep his men in there might be trouble for them?—A. I don't remember what was said; it is possible he may have said something of that kind, but I don't know. I know that he did advise him to keep his men in.

By the CHAIRMAN:

Q. I understood you to say that you had a copy of the documents sent to Senator Culberson. Do you know where your copy is?—A. No, sir. That copy was sent to Senator Culberson; at least I think so. Mr. Purdy had it. I never had it in my possession.

Q. Was it in the nature of a full report from somebody?—A. It was the grand jury report, I think, with all the sworn evidence.

By Senator FORAKER:

Q. Now, Major, if these guns were fired that night in the way you think they were, it would have been necessary to clean them before they were inspected in the morning in order that they might pass inspection, would it not?—A. Yes, sir.

Q. Those are good officers, are they not, in that battalion?—A. I think so.

Q. You think they are perfectly honorable, reliable, truthful men?—A. Yes, sir; I think so.

Q. All of them—Major Penrose, Captain Macklin, Captain Lyon, Lieutenant Grier, and Lieutenant Lawrason?—A. Yes, sir.

Q. The only criticism that you make of Lieutenant Lawrason is that he is an inexperienced officer?—A. Yes, sir.

Q. But he was a very capable officer, was he not, notwithstanding that?—A. No; I don't think he was capable, because of his inexperience.

Q. Was he not a graduate of the Military Academy at West Point?—A. Yes, sir; but he had only been out about a year, I think—a little over a year.

Q. My recollection is two or three years; but was he not a good commander of his company?—A. I don't think he knew enough or had had experience enough to be a good commander.

Q. He was a truthful man?—A. Oh, yes; I think so.

Q. Now, when you were testifying before the military staff you said that these men could have cleaned their guns in two or three minutes, I believe was the expression, or while they were running back to the fort. Is it your opinion that they could have cleaned those rifles so that they would stand inspection in so brief a time as you have thus indicated?—A. I believe they could have done it in two or three minutes if they had made preparations, as they probably would have done.

Q. You think they could clean their rifles in three or four minutes?—A. Yes, sir.

Q. You think they could?—A. If they had made preparation beforehand, which they would if they anticipated what they were going to do.

Q. What preparation would they make?—A. They would have to have the thong and brush in their pockets, and they would have to have an oiled rag prepared.

Q. Do you think the thong and brush would be sufficient to clean those guns?—A. No, sir; not of itself. I think it would with the oiled rag.

Q. With the oiled rag, just fastening the oiled rag on the thong and pulling it through you think that would clean the bore of the gun?—A. Yes, sir.

Q. Do you think it would clean the chamber?—A. They might possibly have to use a dry rag afterwards.

Q. As to the bore?—A. Yes, sir.

Q. Then how about the chamber of the gun?—A. There is very little powder stain in the chamber from firing the gun a few times.

Q. Have you ever cleaned these guns?—A. I never have. I only know from what I have been told.

Q. And you have not served in the line since these guns have been issued?—A. No, sir; but I have been told the powder stain is very

much less in the chamber than in the old rifle. I only know about cleaning from what I have heard.

Q. That is all you know, just what people have told you?—A. Yes, sir.

Q. Who told you that guns of this kind could be cleaned so easily after firing?—A. Quite a number of officers have told me that—I don't remember who.

Q. Do you know how long it takes private soldiers, who carry these guns and have to be responsible for them when they are inspected, to clean their guns?—A. I only know from what I have been told, that is all.

Q. What is that?—A. Well, that they can do it in a few minutes.

Q. These private soldiers can, you think, in four or five minutes?—A. Yes; I think any soldier can, if he knows how to do it, in less than five minutes.

Q. We have had a good deal of testimony here from soldiers, both white and colored, to the effect that it takes anywhere from fifteen to thirty minutes to clean it so it will pass inspection?—A. I think that is nonsense. I have had old officers tell me it can be done in a very few minutes, and I think it can be demonstrated by actual test. There are soldiers out here at Fort Myer and also at Washington Barracks, I think.

Q. So you do not want to change your statement in that respect?—A. I certainly do not, sir; I am certain that I am right.

Q. That they could be cleaned in less than five minutes?—A. Yes, sir; I believe any rifle, if it was cleaned before firing a dozen shots, can be cleaned in less than five minutes by a man who knows how to do it.

Q. That is based on what?—A. Based on what I have been told by officers who know.

Q. Not based on your personal experience?—A. No, sir; it is not based on personal experience.

Q. Nor on personal observation?—A. No, sir; it is not.

Q. But just on hearsay?—A. Yes, sir.

Q. You were of that impression when you made your report?—A. Yes, sir; I had made my inquiries when I made my report.

Q. Now, if it should turn out that these guns after having been fired could not be cleaned in the dark at all, with any assurance that they were thoroughly clean, would that have any effect on your opinion?—A. If it could be proved—

Q. Yes; that on account of the work that has to be done in the chamber of the gun to get it thoroughly clean, so it will pass an inspection, such as the guns were subjected to the next morning, if you became satisfied that that could not be done in the dark at all, would that have any effect on your opinion?—A. I think it would.

Q. You think it would?—A. Yes, sir.

Q. Well, that has been testified to.

Senator WARNER. We had better wait until we see what the testimony is.

Senator FORAKER. I am stating a supposititious case. I suppose I have a right to do that.

The CHAIRMAN. You put that as a question?

By Senator FRAZIER:

Q. Have you been satisfied that a gun out of which a few shots have been fired could not be cleaned in the dark?—A. No, sir; I have not.

Q. You have not been satisfied of that?—A. No, sir; I have not. I have simply accepted the supposition in answering the question.

By Senator BULKELEY:

Q. But have you ever seen the attempt made to clean one?—A. No, sir; I never have.

By Senator FORAKER:

Q. In your report you found some fault with the way Major Penrose proceeded, in regard to his efforts to find out the guilty parties, did you not?—A. Yes, sir.

Q. That is, you thought he ought to have arrested certain men and subjected them to coercive measures. What did you mean by that?—A. I think he ought to have arrested the sentinel on No. 2, and that he should have arrested that scavenger, Tamayo, and placed them in close confinement, and by threats and promises, and so forth, methods that are usually used in such cases, have tried to make them tell the truth.

Q. Well, if he had arrested the scavenger, Tamayo, on what ground would he have held him in custody? Was he not a civilian?—A. He could have held him, of course, only until the civil authorities could reach him, and then he could have turned him over to them, and they could have used the same measures.

Q. Did you not call the attention of the civil authorities to Tamayo?—A. I did. I recommended to the district attorney that that man be arrested and put in jail there.

Q. And he did not do it?—A. No, sir; he did not do it. I do not know why.

Q. Did he state why?—A. No, sir; he did not tell me why.

Q. Was it not because he became satisfied, when he investigated the matter, that the man was not guilty?—A. I don't know what his reason was, but by the time I got there it would have done no good to arrest the man anyhow, in my opinion, because I think he had been worked upon, that he had been influenced.

Q. Who had been worked upon?—A. That Tamayo had.

Q. You think he had been worked upon by whom?—A. By the soldiers.

Q. You think the soldiers had?—A. Yes, sir.

Q. What soldiers?—A. The guilty soldiers.

Q. Did he tell any different story when you got there, from what he had been telling Major Penrose before?—A. I heard that his evidence before the court-martial was very conflicting. I do not know what it was, but I heard—

Q. You have been told that his evidence before the court-martial was conflicting?—A. Yes, sir; but I don't know what it was.

Q. Who told you that his evidence before the court-martial was conflicting?—A. I think the judge-advocate told me.

Q. Captain Hay?—A. Captain Hay; yes, sir.

Q. Captain Hay was disappointed in his evidence, was he not?—A. Captain Hay and the assistant judge-advocate or counsel, I think,

both told me that his testimony showed very conclusively that he was lying.

Q. Well, we will pass him. We have his testimony before us, and we have our respective opinions of the witness. I will not trouble you any further about that just now. Now, the others who were arrested included all you thought of having arrested, did they not?—A. Yes, sir. It is possible something might have been done if the officers in charge of quarters had been arrested, although I did not say so, because I believe that one or more of them were guilty.

Q. Do you still think the noncommissioned officers in charge of quarters were guilty of complicity?—A. I think one or more of them.

Q. Which one?—A. I don't know, but simply from the fact that the guns must have been gotten out from some of the racks.

Q. That is to say, you started without any doubt in your mind that it was soldiers who did the shooting, and then you came to the conclusion that these men were necessarily in complicity with them?—A. No; I did not start out—

Q. But you do now?—A. Yes, sir.

Q. You have not any doubt that the soldiers did it?—A. No, sir; I have no doubt whatever.

Q. That they did the shooting, and that they went over the wall. Do you think they jumped over the wall there?—A. I do.

Q. What do you think of Mr. McDonnel's testimony, who was right there at the mouth of the alley, and who says nobody got over the wall?—A. His testimony conflicts somewhat with that of Mr. Martinez, and I think with that of Mr. Rendall; but I think that is due to a want of accurate observation, which is incident to all such testimony.

Q. You think there may be some little conflict without indicating untruthfulness?—A. Yes, sir.

Q. Except in the case of Tamayo?—A. Well, I do not see how Tamayo could avoid seeing it, possibly.

Q. The conflict in his evidence is that you think he testified the first time that he was down by the sink back of B Company—A. Yes, sir.

Q. And testified the next time that he had driven from the sink up to the corner of the barracks?—A. Yes, sir; but those four men, including Mr. McDonnel, all testified that they saw the men doing the shooting.

Q. Did Martinez testify that he saw anybody going over the wall, or doing anything?—A. He saw them coming over the wall, and I think his testimony was that he saw them shooting. At least he heard them from on the other side of the wall.

Q. Well, the testimony will show for itself.—A. In their testimony as to the main facts, however, they agree, although they may differ in small particulars; but Tamayo denies the main thing entirely.

By Senator OVERMAN:

Q. They agree in the material parts, as to who did the shooting?—A. Yes, sir; I think they do.

By Senator FORAKER:

Q. Have you any doubt that the next morning, as soon as it was light enough, the officers of that company inspected the arms?—A. I

am not prepared to say whether they inspected them at the first streak of light.

Q. I do not mean the first streak of light, but as soon as it was light enough, along about immediately after sunrise, probably?—

A. Of course they all said they did, and there are a good many definitions as to what is light. I don't really know as to how light it was when they inspected them.

Q. Have you any doubt about the truthfulness of the statements of the officers about inspecting their companies' guns?—A. I have not.

Q. And you have not any doubt in your mind but that they found all the guns clean, have you?—A. I remember reading somewhere or other that Mr. Lawrason said that some of the guns in his company were not perfectly clean, but I don't know what the final conclusion about that was.

Q. Is it not a common thing on inspection to find some guns in any company that will not be so perfectly clean that they will be accepted?—A. Yes, sir; they may have been unclean for some other reason than firing.

Q. Whatever Mr. Lawrason said, you would believe him?—A. Yes, sir; thoroughly.

Q. Or Major Penrose, or Captain Lyon?—A. Yes, sir.

Q. Or Lieutenant Grier?—A. Yes, sir; or any one of them.

Q. Now, the officers were doing all they could, were they not, in your opinion?—A. They seemed to be doing everything that was possible.

Q. As soon as they reached the conclusion from seeing these shells and clips that some of their men had done it, although they were loath to reach that conclusion, they went to work upon that theory?—

A. I think so.

Q. And it was simply a question with you and with them and with everybody else which ones were the guilty ones?—A. Yes, sir.

Q. And they did all they could do, so far as you observed?—A. Yes, sir.

Q. Finally twelve of the soldiers were arrested, were they not?—A. Yes, sir.

Q. And what was your opinion as to their guilt at that time, whether there was any testimony to justify arresting them?—

A. There was no direct testimony implicating any of them.

By Senator WARNER:

Q. That is, any particular one?—A. Any particular one; yes, sir.

By Senator FORAKER:

Q. But simply that some of them must be guilty on the general count?—A. Yes, sir.

Q. You heard no evidence against them?—A. No evidence that would go before a court.

Q. And you said so to the authorities?—A. Yes, sir.

By Senator OVERMAN:

Q. As to any particular one?—A. As to any particular ones. That would refer to the whole battalion.

By Senator FORAKER:

Q. You spoke about it being the duty of the Major to use the sweating process. What did you mean by that?—A. Well, I meant

by that to put these men in solitary confinement, and if necessary to put them on bread and water or something of that kind, but I did not mean to use any torture or anything of that kind.

Q. You did not want to apply the water cure?—A. No, sir; I did not.

Q. Nor anything like that?—A. No, sir; I had no such idea at all. I did not understand thoroughly what the sweating process was when I made use of the expression.

Q. That would be a violation of the regulations, would it not?—A. Yes, sir.

Q. Resorting to the sweating process implies that, does it not?—A. Yes, sir; I did not know that, however, and I so testified before the court-martial.

Q. An officer resorting to the sweating process would be liable to court-martial himself, would he not?—A. Yes, sir; he would.

Q. And he dismissed the service for it, would he not?—A. Yes, sir.

Q. You, as a result of all that investigation, reported that unless somebody brought forth the guilty people, that the whole battalion should be discharged, without honor, didn't you?—A. I don't understand the question.

Q. I refer to page 597 of the court-martial proceedings, where your report in printed. You made this recommendation:

If satisfactory evidence concerning identity of the criminals does not come from members of the battalion before a certain date, to be fixed by the War Department, I recommend that all enlisted men of the three companies present on the night of August 13 be discharged the service and debarred from re-enlistment in the Army, Navy, or Marine Corps.

A. Yes, sir; I recommended that.

Q. Did that originate with you?—A. Yes, sir.

Q. Who suggested it, in the first place, to you?—A. Nobody.

Q. It just originated in your own mind?—A. It originated in my own mind; yes, sir.

Q. Did you confer with anybody before you made your recommendation?—A. I did not.

Q. Did it not seem to you like a very harsh corrective measure to discharge 167 men when only 9 to 15, according to your own theory of the case, were implicated in the firing?—A. It certainly seemed a very hard thing to me. I looked at it, however, not entirely or not really so much a matter of punishment as it was a matter of protection to communities. I considered that those men were a dangerous lot of men to be allowed to go into any other place, and probably do the same thing again; and while I was sure that it would work a hardship on a few of them, I considered that for the ultimate good to the community, to the United States, it would be better that they be discharged.

Q. Would it not work hardship on most of them?—A. I believe the majority of the men know who did that to-day.

Q. That they know?—A. That they knew it within a week afterwards.

Q. How do you know that anybody knew it except only those who participated in it?—A. I know it because I know soldiers.

Q. Oh, you infer, do you?—A. Yes, sir; I know soldiers. I know when a man commits a crime in a company that the men all know it. They are bound to find it out.

Q. You have no positive proof of anything?—A. No, sir; I have no positive proof of anything.

Q. You simply reason it out?—A. Yes, sir; I am as morally certain that a majority of the members of that battalion know who committed that crime as I am that I am sitting here.

Q. You think they did?—A. From my knowledge of soldiers.

Q. That is the only way you reach that conclusion?—A. Yes, sir; that is the only way.

Q. And you think a conclusion arrived at in that way is a just basis on which to discharge 167 men?—A. If you consider that the greatest good to the greatest number is the proper rule, I do, and that is the way I look at it.

Q. There were some pretty good soldiers in that battalion?—A. I think so.

Q. We have been told that one of them had served twenty-six years without being ever reprimanded?—A. That is Sergeant Sanders. I believe.

Q. Without ever being reprimanded?—A. Yes, sir.

Q. That is an extraordinary record, isn't it?—A. It is a good record.

Q. Is there another like it in the whole history of the American Army from the day of George Washington down to this time?—A. Well, Senator, you have got to take the Sergeant's word for it that he was never reprimanded. He never received any punishment, possibly, and there are a great many soldiers in the Army who have served thirty years and been retired who have never undergone punishment of any kind, and who might say really that they never had been reprimanded, for that matter.

Q. Do you think it is a matter of frequent occurrence that men serve thirty years without being punished in any way?—A. No, sir; it is not a matter of frequent occurrence, but there are quite a number who have served that length of time, as well as Sergeant Sanders, although his service has been exceptionally good.

Q. Is it not true that most of these noncommissioned officers have equally good records?—A. A great many of them have excellent records, there is no doubt about that.

Q. And they were men who stood high in the confidence of their company commanders?—A. Yes, sir.

Q. As truthful men as well as good soldiers?—A. Yes, sir; as truthful men; and I would believe them under ordinary circumstances as quickly as I would any other soldier.

Q. Now these soldiers took a great deal of pride, did they not, in the good name of their companies, their battalion, and their regiment?—A. They certainly ought to.

Q. Well, they did, as a matter of fact, did they not?—A. Yes, sir; I believe they did under ordinary circumstances; but as I have said in my report, this was not a usual circumstance, as this matter was racial, and it was external to the ordinary affairs of discipline.

Q. It was because it was racial that you think the circumstances were out of the ordinary?—A. Yes, sir; I think that is the cause of the whole business.

Q. In your testimony before the staff, or some other place, you spoke as though there was a change in the character of colored sol-

diers of late, as compared with those of previous years. Do you remember that?—A. I said I did not think the discipline among them was as good as it was in former years. That is due to the modern methods of discipline.

Q. Is that due to something the soldiers are responsible for, or that the officers are responsible for?—A. No, sir; neither the soldiers nor the officers, but is due to the system.

Q. That is something that would not affect the truthfulness of the soldiers?—A. No, sir; I think not.

Q. And if this was due to racial differences, would not that affect whites as well as blacks when they would come to testify about the trouble between them?—A. It might possibly, if it were whites against blacks.

Q. Was not that the case here in a certain sense?—A. Well, it was the exact contrary—that is, it was blacks against whites.

Q. Is there any difference between white against black and black against white?—A. Yes, sir; I think there is, in respect to crime or anything of that kind. I think that the colored race feels that it is oppressed, feels that it has not its proper station in the community, both as regards its political and its social status, and that that fact works on soldiers as well as citizens, and causes a good deal of ill feeling against white people, and makes the colored people stand together when any trouble occurs. Now, I am not saying that at all as being against the colored people, because I think it is a great pity that they should be in such a situation, but I believe they are.

Q. You have no prejudice whatever against the colored people as such?—A. No, sir; I have not.

Q. I understand you to have stated that before. Still in this case, somehow or other, although all these men deny any participation in this shooting, and bring forward this proof to which I have referred, about their guns being clean when inspected, and that they had all their cartridges, notwithstanding all that, you outweigh their testimony with that which you have heard from the citizens of Brownsville?—A. Yes, sir; the testimony of the citizens of Brownsville was positive. A great many of them saw colored men doing the shooting, or heard their voices.

Q. Have you ever made an effort to see how far, of a dark night, you can recognize a man, can tell if he is a colored man or a white man, when there is no artificial light?—A. No, sir; and I do not pretend to know whether all that evidence as given was correct. That has got to be determined by somebody else, but there was no test made about it when I was down there.

Q. You are familiar with the testimony that was given before the court-martial?—A. Yes, sir; a good deal of it, and I heard it before.

Q. You heard the testimony given by Lieutenant Blyth and Lieutenant Wiegenstein and Lieutenant Harbold?—A. No, sir; I did not. I only read in a general way.

Q. And Colonel Stucke, the engineer—you are familiar with what it was?—A. I know that their evidence was to the effect that soldiers could not be seen under certain circumstances.

Q. As a result of certain experiments they made?—A. Yes, sir.

Q. That they could not tell, even at a very short distance, whether a man was a white man or a black man at night?—A. Yes, sir.

By Senator OVERMAN:

Q. Did you hear that they put them in a ditch?—A. The only thing that I know is what I read in the newspapers about the matter, and I do not know what the real testimony was.

By Senator FORAKER:

Q. You have never experimented at all?—A. No, sir; I never have.

Q. You do not know, then, whether one of these citizens, take the case of Mr. Rendall, an old gentleman, I believe, 72 years old, up in the second story of the telegraph office building, with one eye entirely blind and the other so weak in vision that he has to wear glasses—you don't know whether he could look up the wall there at a distance of something like 100 feet and see men getting over the wall and tell who they were of a dark night, and no lamps about?—A. The distance he was from those men was not that far, hardly, as I remember it. It would only be about 40 or 50 feet.

Q. Well, according to his testimony, it was farther, as I recollect it, but let it be 40 or 50 feet.—A. From what he told me those men were right along here somewhere [indicating on the map].

By Senator LODGE:

Q. Were there not lights at the gate?—A. Yes, sir; there were lights at the gate.

By Senator FORAKER:

Q. How much of a light is there at the gate?—A. Not much of a light.

Q. It is a very weak light, isn't it?—A. A lamp light.

Q. How far would it throw a ray of light at night?—A. I suppose it would throw a ray so that you could tell a man's color, possibly 25 or 30 feet, but I may be mistaken about that.

Q. Would it throw it farther than 20 feet?—A. I could not tell; I don't know.

Q. Unless he would be within the sphere of it, over which it would throw its light, it would not do any good at all, would it?—A. No, sir.

Q. So that if a man were at a distance of 50 or 60 feet up the wall from the gate, that light would not help any, would it?—A. I am not positive about that. There may have been lights inside the gate, but I have forgotten.

Q. As it would be with him so it would be with every other witness that testified, would it not?—A. I can not say positively.

Q. Assuming that somebody did that shooting, about which there is no controversy, and that they were men, and that they had guns and had clothes and had hats or caps on, or whatever you want to put on their heads, and that it is solely a question, as this is, of identity, do you think a man could tell in a dark night, such as you learned that night was, at a distance of 40 or 50 feet away, what kind of clothes a man was wearing?—A. I don't know whether he could or not; but, under the circumstances, where there were lights at the street corners, it may have been very possible for them to determine the khaki color.

Q. The question of light would cut a very important figure with you in determining the question of identity?—A. I think it would;

but really there were so many people who testified to practically the same thing, as far as distances were concerned—

Q. You went all the way along that alley, didn't you?—A. Yes, sir.

Q. And there is not an artificial light along it, is there?—A. I don't think there is at all.

Q. And there is no artificial light along Fifteenth street?—A. There was light from the houses. There was a light in the Cowen house and there were lights in the hotel which shone out in the street.

Q. I am speaking now of the lamps outside. There were none in that alley?—A. There were no lights in that alley; no lamps.

Q. And this was at midnight, when, except in hotels, people would generally be in their beds and asleep and lights out.

By Senator BULKELEY:

Q. There were no lights on the garrison road, except at the gate?—A. No, sir; I do not think there were.

By Senator FORAKER:

Q. Were those lights at the gate lighted?—A. I think they were.

Q. How many?—A. I think only one, over the little gate. There are two gates, one for pedestrians and one for carriages, and there is a place for a lamp above the middle of the gate for carriages, but I don't think there was any light in it. As I remember, it was out of order; there was something the matter with it.

Q. I wish you would look at the picture I now show you, No. 14 of the Purdy testimony, and tell me whether that is a correct picture of the gate.—That is the gate for pedestrians.

Q. That is the small gate?—A. Yes, sir.

Q. And the large gate is farther west, down towards the river?—A. Yes, sir.

Q. This gate is about how wide?—A. I should say it was 4 or 5 feet wide.

Q. And there is one lamp over that, isn't there?—A. I think there is only one light there.

Q. That shows over the top there?—A. Yes, sir.

Q. Now I call your attention to the other, here. It is picture No. 5. That shows both gates, does it not?—A. Yes, sir; that is it. I think there were places for lamps on both those posts, but I don't think there were any lights lighted at all there that night.

Q. There are no lights there at all, are there?—A. No, sir; I think not.

Q. So that instead of being two lamps at the gate, one on either side at the top of the posts of the big gate, there was only one lamp over the small gate?—A. There was only one lamp over the small gate.

Q. That is the way it was when you arrived there?—A. Yes, sir I am pretty positive there was only one light.

Q. The way it was that night, and that was a small lamp. You don't know the candlepower?—A. I do not.

Q. Now, you were asked about Captain McDonald. I only want to ask you one question about him. I understood you to say that you did not think he was a very discreet man.—A. Yes, sir.

Q. He practically conducted the investigation that was made by the citizens' committee, didn't he?—A. He only conducted that part

of it which was begun after I arrived there, and which took place in the post administration building. He questioned a number of soldiers; that is all.

By Senator WARNER:

Q. That is the part he took?—A. Yes, sir. He did not do any of the investigating in town at all.

By Senator FORAKER:

Q. He was a detective as well as a ranger?—A. As well as a ranger; yes, sir.

Q. Did you say somewhere in your report that he practically conducted that examination?—A. I said that he conducted the investigation which Major Penrose invited.

Q. Oh, yes.

By the CHAIRMAN:

Q. Is that what you term the investigation of the citizens' committee?—A. Oh, no, sir; that was entirely different.

By Senator FRAZIER:

Q. That was an examination of the soldiers who were arrested down in the barracks?—A. Captain McDonald only questioned a very few soldiers. He questioned one in particular that I remember, whose hat had been found down in town.

Q. A cap?—A. Yes, sir; and he questioned one or two others, a man who had a saloon over in the tenderloin. I don't think he questioned over four or five men altogether.

By Senator WARNER:

Q. That was Allison?—A. Yes, sir.

By Senator FORAKER:

Q. He questioned Miller, of Company C?—A. Oh, yes; he examined him also, and he examined Captain Macklin—questioned him.

Q. Did he develop any truth of any kind about anything?—A. No, sir; he did not develop anything at all.

Q. I saw it stated somewhere in the papers that about the time the Penrose court-martial was in progress that he announced that if his directions had been followed, the guilty soldiers would have been punished long ago, or something to that effect. You do not know of anything that would justify him in making such a statement?—A. No, sir; I know nothing whatever.

Q. But I infer from what you say that just the reverse is true?—A. Yes, sir.

Q. That he really contributed no help whatever?—A. No, sir.

Q. I find here, page 103 of Senate Document 155, what I was looking for. It is a supplemental report made by Major Blocksom to The Military Secretary, from the Inspector-General's office, Headquarters Southwestern Division, Oklahoma City, September 23, 1906, in which you use this language about Captain McDonald:

It is highly improbable that the accused men could have been taken away without discovery by civil authorities had Major Penrose kept secret the instructions in the telegram. Captain McDonald is extremely shrewd, and was intensely suspicious and vindictive in the matter. He showed distrust and dislike toward the officers of the Twenty-fifth Infantry in every word said and

every move made. He possessed great influence over the lower classes in Brownsville and vicinity.

That is true, is it?—A. That is true; yes, sir.

Q. You had that impression then?—A. And I have it now.

Q. So you think we could not get any information from him that would be valuable if we were to bring him here?—A. No, sir; I do not. I may be mistaken, but I do not think he knows anything that will lead to any elucidation of the question whatever. That is my opinion only.

By Senator OVERMAN:

Q. Do you know at whose suggestion and by what authority Mr. Leckie was sent down there to Brownsville to make an examination after you had made yours?—A. No, sir; I do not.

Q. Was it authorized?—A. It was authorized by the department commander. I think the original purpose for which he was sent down there was something else. I think he was sent down there to look up the matter of an outlet for the lagoon there, fixing a sluiceway.

Q. And he just volunteered this?—A. Whatever instructions he was given about the matter I think were in addition to those; but I don't know whether they were given him officially or not; that is, on paper.

Q. Do you know whether he was directed to go there and make an investigation?—A. I think he was.

Q. Who gave him that authority?—A. He was ordered by the department commander to go down there, but I think the ostensible purpose was to look after this sluiceway into that lagoon. Whether the department commander gave him further orders or not, or whether he volunteered as a witness in the case of Major Penrose, I have no knowledge.

Q. You have not heard?—A. No, sir.

Q. There were no written instructions given him to go and investigate?—A. I do not believe there were.

Senator FORAKER. The record shows how he came to go. He was ordered to go there.

Senator OVERMAN. I know he was ordered there, but the record does not show that he was ordered there to make an investigation.

Senator FORAKER. His testimony was that he went there about the lagoon, and afterwards he was ordered to go back there.

Senator FOSTER. Were his orders written or verbal?

Senator FORAKER. I don't know.

The WITNESS. The fact with regard to that groove was that Mr. Leckie made that remark, that it could not have come from there, and I wanted to be certain about it, so I could be certain about my own statements.

Q. I will give you the benefit of that in the morning. I can not conclude with you to-night. I want to give you the benefit of your statement before the Penrose court-martial, at page 642. You were asked:

Q. What did you mean, then, when you said "And the suspicious circumstance about it is that that was the only one that was broken open, and this was that same C Company?"

That was the question?—A. Yes, sir.

Q. (Reading:)

If it had been ordered broken open, doesn't that relieve all the suspicion of it, really?—A. At the time I investigated the affair I didn't think so much of the extent of the culpability of C Company, but on thinking of it afterwards, and thinking of the number of men that had been maltreated, as was claimed, and injured, I came to the conclusion that C Company had the largest part in the criminal events.

Are you still of the opinion or not that C Company had the largest part?—A. Only for the reasons that I have given; yes, sir.

Q. I understood you to say you had modified your opinion. I wanted your answer now, in direct response to the statement you made before.—A. I think the probabilities are that C Company had the largest part to do with it.

Q. You still think that?—A. Yes, sir.

Q. Notwithstanding what I have called your attention to as to the kind of ammunition the company had and the testimony of Captain Macklin that they had no other kind?—A. Well, I believe that they could get ammunition without any trouble.

Q. You think they could have gotten that?—A. Yes, sir.

Q. That cuts no figure with you?—A. No, sir; I do not think it does.

Q. I just wanted to find out.—A. I do not think they would have a particle of difficulty in getting whatever ammunition they wanted.

Q. Where would they get it?—A. From other men, or when they turned in ammunition they would reserve some for future use. They always do.

Q. The ammunition they turned in at Fort Niobrara was Krag ammunition. They could not use that, could they?—A. No, sir; but they had had target practice.

Q. That reminds me—do you know of any difference in the appearance of one of these bullets that is fired out of a Krag cartridge and one that is fired out of a Springfield cartridge?—A. What is the difference between them?

Q. Is there any difference in the bullet itself?—A. When I was down at San Antonio—I can not tell this without making a rather long explanation of what I observed when I was down at San Antonio making the investigation there with Mr. Purdy—there was ammunition brought before us, and I there saw that what was said to be the Springfield bullet was somewhat sharper at the nose than what was said to be the Krag bullet. The Krag bullet also had three cannelures around the base of it, which were used, I think, for the purpose of putting a lubricant in. The bullets otherwise were very much alike. There was some little difference in the base of the bullet.

Q. Is it not true that the Krag bullet was made for a number of years without any cannelure around the base?—A. I don't know, sir; but since I have come here I have consulted General Crozier on the subject, and he told me that there was no difference between the bullets as they are at present manufactured.

Q. I will ask you to look at the two bullets in my hand and tell me whether you see any difference at all? One is a Krag and the other is a Springfield. I will ask you to tell which is which, if there

is any difference.—A. There is very little, but I should say that is a Springfield.

Q. You should say this is the Springfield?—A. I should say that is the Springfield. I don't know, it looks to me a little bit sharper, although there is not much difference.

Q. Well, is it the Springfield?—A. No, sir; it is not.

Q. That is the Krag, isn't it?—A. That is the Krag, according to that.

Q. And this is the Springfield?—A. Yes, sir.

Q. You had it just wrong.—A. I had it just wrong. Those really are exactly the same, that is, the noses.

Q. Exactly the same, and are they not made in the same mold precisely, each weighing 220 grains, no more and no less?—A. They both weigh the same, and I think they are both exactly the same now.

Q. Well, I notice that you testified with a great deal of positiveness that there was a difference.—A. Yes, sir; there was a difference in those shown.

Q. But now you do not see any difference in these?—A. I do not see any difference in these.

Q. It would be still more impossible, would it not, to distinguish between those bullets after they had been fired, because of the way in which they would be affected if they went into any obstruction, in wood or brick or anything?—A. I don't think you could tell at all from the bullets.

Q. You could not tell anything at all about it, for they would be disfigured by the striking?—A. I should like to say that when I was down in San Antonio that time, I went down to one of the company quarters of the Twenty-sixth Infantry, at Fort Sam Houston, and asked the company commander to let me see the Springfield cartridge and the Krag cartridge, and he showed them to me, and the armorer there in each case pulled the bullet out of the shell, and the Krag bullet had these cannellures on it.

Q. Well, we have testimony, and I guess there is no controversy about that, that for a time the Krag bullet was made with the cannellures, and for a time not, so that the Krag bullet may or may not have these cannellures when you find it.—A. I know that the Chief of Ordnance says that they are exactly the same—precisely the same now.

Q. Precisely the same, as I understand it. Now, if it is agreeable to the committee, I believe that I will suspend. I want to look over the Major's testimony. There are over 100 pages of it in the printed record, and I did not find time this morning, when I learned the Major was going on the stand, to read it all before he came, and I should like to read the rest of it.

By Senator BULKELEY:

Q. I should like to ask one question. If this scavenger, Tamayo, testified that when the firing commenced it was towards the fort and he heard bullets whizzing over his head, it would be in line with your theory, would it not?—A. Yes, sir; I think so. Several other men told me that they heard bullets, too.

Q. Then his testimony to that effect would be in accordance with your theory?—A. Yes, sir.

Q. And to that extent, at least, you would think it was truthful, would you not?—A. Yes, sir; especially as it was corroborated by other evidence.

Q. But it was in accordance with the theory that you advanced, that the first firing was towards and over the fort?—A. Yes, sir.

Q. Now, Major, did you hear on the part of any of the soldiers while you were there that they had any objection to being sent to Brownsville from Fort Niobrara?—A. No, sir; I did not hear it from the soldiers themselves at all.

Q. Did you hear it from anybody that the soldiers objected to going there?—A. I don't believe that I did hear that they objected to going there. I did hear that they heard that protests had been made against their being sent there.

Q. But you did not hear any objection on the part of the soldiers against going there?—A. No, sir; I do not think I did.

Q. You did hear objections on the part of the people of Brownsville to their coming there?—A. Yes, sir.

Q. So that it was really white against black and not black against white?—A. Yes, sir; to start with.

By Senator FORAKER:

Q. What was it you told us about Louis Cowen—is he the man whose house was shot up?—A. Yes, sir.

Q. What is his business?—A. I don't think he does much of anything. He does what he gets a chance to do. I think he was a clerk for quite a while in the county clerk's office, and was in there when I was making my investigation. I think, just doing a sort of deputy county clerk work.

Q. What kind of a man is he as to habits?—A. I think his habits are fairly good. I did not hear anything against him.

Q. Did you see him drinking or anything of that kind while you were there?—A. No, sir; I never saw him under the influence of liquor.

Q. Did you talk with him?—A. Oh, yes; I talked with him quite a number of times.

Q. How did he talk about the matter?—A. Well, he was very much prejudiced against the soldiers.

Q. The talk you had with him was all after his house had been fired into?—A. Yes, sir; it was all afterwards.

Q. Did he say anything about his children talking to the soldiers?—A. No, sir.

Q. Didn't he or somebody else tell you that the soldiers had been very kind to his children, and had gotten bait for them to go fishing with, and all that sort of thing?—A. Somebody told me that, but it was not any of his family.

Q. You testified to that somewhere, didn't you?—A. I don't remember. I don't think I testified to that. I think somebody else has done so.

Q. I am not sure you did, but I have seen that somewhere, though.—A. I think somebody else testified to that. I have heard what it was, but I don't remember what it was.

Q. That is, that between the soldiers and the children there were the best of relations, and this is mentioned as evidence of that?—A. I don't know. I heard, as I said before, that somebody had said that

his children talked rudely to the soldiers, but I could not find out who it was.

Q. You could not find anybody who was willing to be responsible for that statement?—A. No, sir.

Q. Now, you say others besides Tamayo told you that they heard bullets going over the post?—A. I think two of the hospital corps men told me that.

Q. Some of the hospital corps men?—A. And possibly the ordnance sergeant; but I am not certain.

Q. Those bullets were heard going over?—A. Over the hospital.

Q. Did they tell you how many they heard?—A. I think one or two, so far as I can recollect.

Q. But you do remember being told that the bullets had gone over there?—A. Yes, sir.

Q. I think we will suspend here.—A. I would like to call the attention of the committee to a photograph here, No. 4, showing the rear of the Miller Hotel, taken in the alley on one side of Thirteenth street. Looking up that alley you can see the end of B Company barracks, and I think you can see that it extends clear up beyond the mouth of the alley.

Q. Are you sure that is B Company barracks?—A. I am pretty sure that is B Company barracks. I may be mistaken about that.

Q. Is not that one of the small houses that stands at the rear, close to the wall?—A. No, sir; you can see from the top of it that it is a big house, and I think that that matter was brought up in the Penrose court-martial, if you have a record of that.

The CHAIRMAN. We have had other testimony to the same effect. We have not looked it up.

The WITNESS. I am satisfied that that map is wrong.

By Senator FORAKER:

Q. That is, you think that the eastern end of B barracks ought to be put up opposite the eastern line of the alley extended?—A. Yes, sir; at least that far and, I think, a little farther.

Q. According to the photograph you call attention to, it extends to only about opposite the middle of the alley, does it not?—A. No; I think it goes clear to the end, or possibly a little farther.

Q. Let us look and see if we can agree about that. You say that is the end of the building there?—A. I think that is the end.

Q. Right opposite the middle—A. No; I think it is opposite the eastern end.

Q. You say that is the eastern end of the barracks that you see?—A. Yes, sir.

The CHAIRMAN. I suggest that all that is mere speculation.

Senator FORAKER. We have the photograph before us, and I object to the statement going into the record that it goes beyond the alley, because there is the picture itself, and it shows that if that is the barracks at all, the end of the barracks stops short of the east line of the alley extended.

Senator WARNER. The photograph is already in evidence.

By Senator BULKELEY:

Q. If this theory of yours and the testimony that you have given is corroborated, that the first firing was over the fort, over the barracks into the reservation, would it not have been a natural suppo-

tion of the officers and men that the fort was being fired on?—A. Yes, sir; undoubtedly.

Q. And they acted on that presumption?—A. They acted on that presumption, I think.

Q. Now, do you recall that the testimony of Tamayo in the Penrose court-martial was mainly in regard to these bullets and to his duties that night?—A. Yes, sir; I think it was, although I do not know what his testimony before the court was. I only read some of it in the newspapers.

Q. So that except as to his position behind the barracks, whether it was 50 feet nearer or 50 feet farther, there is nothing untruthful in his testimony, so far as you know?—A. I only know about that from what the judge-advocate said.

Q. There is nothing else that you have put down as untruthful except his location?—A. So far as I know that was the only untruthful thing that I know of. That is, I will not even say it was untruthful. It may have been a discrepancy.

Q. A discrepancy as to his location?—A. Yes, sir.

Q. You do not, as a matter of fact, put down any of his testimony as truthful: it may have been a discrepancy?—A. Yes, sir; that, of course, may have been a mistake of his the first time.

Q. A few feet either way, but you do not put it down as untruthful, any part of it?—A. Except that I do believe that he did see who did that shooting.

Q. But this first shooting, if it was outside and he was inside, he could not see that, could he?—A. The first shooting was inside.

Q. But you say those bullets went over the garrison?—A. Yes, sir; but they were fired from the inside of the fence.

Q. I thought you said they were fired from outside, at the gate?—A. No; they were fired from the inside, but I think there were a few of them fired over the garrison.

Q. They were fired over the garrison, but if they had been fired from inside they could not fire directly over the barracks, could they?—A. They could fire in any direction.

Q. They could fire in any direction. That is the only discrepancy in his testimony that you refer to, is it?—A. Of course the only real deficiency or dishonesty in his testimony, as I believe, was the statement that he did not see anybody. Of course there was that discrepancy in the different places he said he was. It may have been simply a mistake.

Q. What you regard as untruthful in his testimony is his statement that he did not see anybody?—A. Yes, sir; the other may have been a perfectly honest mistake.

Q. A difference of a few feet in his location?—A. Yes, sir.

Q. But his hearing the bullets would agree entirely with your theory?—A. Yes, sir.

Q. And being fired over the post would naturally give the officers and men the impression that the post was being fired on?—A. Yes, sir.

By Senator FRAZIER:

Q. That is a mere theory of yours, is it?—A. Yes, sir. That was a mere theory that they fired the shots over the post.

Q. In order to deceive the officers?—A. Yes, sir; in order to deceive the officers and men.

By Senator BULKELEY:

Q. But you think they did fire some over the post?—A. Yes, sir; that is my belief.

By Senator FORAKER:

Q. Was there anything singular to you in the fact that the women and children kept off the streets after the firing and before the soldiers left, and then came out on the streets again afterwards?—A. It indicated to me simply that they believed the soldiers had done the shooting originally, and that their lives were in danger while they were there, that is all.

Q. Was there any proof in that that the soldiers did do the shooting?—A. There was no absolute proof in it; no, sir; it simply showed what the general feeling in the town was.

Q. Was it not quite natural that after such a shooting affray the women and children should keep indoors, without regard to whether the soldiers were guilty or not?—A. I think when you take into consideration—

Q. Somebody had done the shooting?—A. Yes, sir; but I think when you take into consideration in connection with that the fact that they came out as soon as the soldiers went away, that that showed what their opinion was.

Q. That showed what their opinion was?—A. That they thought the soldiers did it.

Q. You do not pretend that there is any proof in that?—A. No, sir; no proof in it; simply a presumption.

By Senator BULKELEY:

Q. Were not the soldiers confined to the post during the rest of their stay there?—A. Yes, sir; they were very strictly confined to the post.

Q. And was not that known in the town, that they were confined to the post?—A. Yes, sir; that was known.

By Senator FORAKER:

Q. Just a word. In what state of discipline did you find these soldiers when you went there?—A. They were apparently in a very good state of discipline.

Q. And they were quite a soldierly looking set of men?—A. They were.

Q. And you did not see anything slovenly?—A. No, sir; I did not see anything wrong with them.

Q. They were fine looking soldiers?—A. Yes, sir.

Q. The officers were attentive to duty?—A. They seemed to be perfectly attentive. Everybody was attentive.

By Senator TALIAFERRO:

Q. Did I understand you to say that there was no proof that the negro soldiers did this shooting?—A. There is no proof against any individuals.

By Senator WARNER:

Q. This photograph of the gate was taken after Fort Brown was abandoned as a military post?—A. Yes, sir; all these photographs were taken after it had been abandoned.

Q. So whatever dismantling may have been done at the post you do

not know?—A. No, sir; I don't remember with regard to those lights. I suppose you refer to that.

Q. Yes. You have been asked by Senator Foraker if you learned of a man being in a saloon and making some remarks when Captain Macklin and other officers were there drinking. You said you had heard of that circumstance?—A. Yes, sir.

Q. That was the day of the shooting?—A. Yes, sir; that was the 13th.

Q. Did you speak to Captain Macklin about that?—A. I don't remember, sir, whether I did or not, and I am not positive whether I heard that story when I was first down there or not, or whether I heard it the second time, but I think I heard it the first time; but I attributed it to prejudice against the officers, and I do not think that I questioned Captain Macklin about it at any time.

By Senator FRAZIER:

Q. Prejudice against the officers?—A. Yes, sir; on account of the shooting.

By Senator WARNER:

Q. Didn't you also, in the course of your investigation, learn that Mrs. Evans or some other parties had complained of the character of talk indulged in by these colored soldiers?—A. Around her house.

Q. What was the fact you learned about that?—A. I learned that complaint had been made about the soldiers swearing and using obscene language around the house. Complaint, I think, had been made to Major Penrose, and that, as I remember it, was made after this assault on Mrs. Evans.

Q. The soldiers were confined to the barracks after that assault, because the assault was made on the night of the 12th?—A. Yes, sir; on the night of the 12th.

Q. There would be only the 13th after the assault, because they were confined to the barracks after the 13th?—A. Yes, sir. I know complaint was made about their swearing and using obscene language, and my remembrance was that that complaint was made after the assault on Mrs. Evans, although it may have been before.

Q. You have been asked also whether Mr. Newton expressed any resentment. Had you learned there that Mr. Newton, when he went to the hospital to have his head dressed, stated to the noncommissioned officer, in answer to the question how he got hurt, that he went by the post-office and some one ran out and hit him with a six-shooter. I asked him if that was all that he did—just go by the post-office, and he said that it was. I asked him who it was that hit him, and he said, "Oh, that's all right; we will get them sons of bitches some day."

Senator HEMENWAY. Who is that testifying?

Senator WARNER. That is the testimony of Nolan, private of the first class, in charge of the hospital.

Senator HEMENWAY. Who took that evidence?

Senator WARNER. That statement, from the testimony taken before Mr. Purdy, was introduced by Senator Foraker here as a part of this man's evidence. Then, again, on page 592 of the cross-examination of this same man, Nolan, I asked this witness:

Q. You asked who it was that had struck him?—A. Yes, sir.

Q. And he gave you no satisfaction?—A. No, sir. He just stated some man run out and struck him.

Q. And he also said, when you pressed him for the name of the party that struck him, "Oh, that's all right; we will get them sons of bitches some day?"—A. Yes, sir; that was the remark he made.

Now, speaking about the question of a telegram which has been read to you, in your report of September 23, 1906, on page 103 of Senate Document 155, in which it is said:

It is highly improbable that the accused men could have been taken away without discovery by civil authorities had Major Penrose kept secret the instructions in the telegram.

What do you know about Major Penrose not having kept secret the instructions contained in the telegram?—A. He told Judge Wells that he would have to take the prisoners away with him, and the instructions in this telegram were to that effect, and the telegram was confidential.

Q. The telegram was confidential. That is what you refer to by this?—A. Yes, sir.

By Senator BULKELEY:

Q. Did you think that there were any leaks in the telegraph office itself?—A. I thought there were, myself.

Q. Did you have any trouble with your own messages?—A. I remember one of the messages which I sent, I have forgotten which one it was now, but Mayor Combe made some remark to me that night which indicated to me that he knew something about this telegram. But I supposed that the boy there had told him. I did not think that Mr. Sanborn, the principal operator, had done so. But I think the boy did it.

Q. You are satisfied that there was a leak there?—A. Yes, sir; and also after Major Penrose got that confidential telegram he thought that Captain McDonald had information about it.

Q. Before he did?—A. Before he did. It was certainly rather curious that McDonald should ask for those prisoners immediately afterwards.

Q. He acted, apparently, on that information?—A. Apparently he did so.

Q. Which he had gotten from the telegram?—A. Yes, sir.

By Senator FORAKER:

Q. Major Penrose denied having violated the confidence imposed by the telegram, did he not?—A. No, sir; he did not; but he claimed that he could not avoid telling, and I think he was right.

Q. Except to Judge Welch, that is?—A. Yes, sir.

By Senator WARNER:

Q. He had promised Judge Welch that he would not take those prisoners away without notifying him?—A. Yes, sir.

By Senator FORAKER:

Q. There was no impropriety in that?—A. No; I do not think there was. And I believe that if he had not told him, and had tried to get those prisoners away, there would have been bloodshed. I have not the slightest doubt about it.

Senator WARNER. I think that is correct.

The WITNESS. Yes, sir; that is correct.

By Senator BULKELEY:

Q. It was a wise precaution?—A. Yes, sir.

Q. And the keeping of his own word with Judge Welch?—A. Yes, sir; and the very best thing he could do.

(Witness excused.)

TESTIMONY OF WILLIAM FORSTER.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Give your name in full.—A. William Forster.

Q. What is your age?—A. Thirty-six years.

Q. Where do you live?—A. Brownsville, Tex.

Q. How long have you resided there?—A. Six years this month.

Q. Have you ever been in the Army?—A. Yes, sir.

Q. How long?—A. About nine years.

Q. What regiment were you in?—A. The Fifth Cavalry, sir.

Q. The Fifth Cavalry?—A. Yes, sir.

Q. In the United States Army?—A. Yes, sir.

Q. And you were discharged with what rank?—A. Sergeant, sir.

Q. Were you in Brownsville on the 13th of August at the time of what we term the shooting up of Brownsville?—A. I was in Fort Brown, sir.

Q. What were you doing there then?—A. I was living in Fort Brown as a teamster.

Q. What is it?—A. I was a teamster in the quartermaster's corral.

Q. You were a teamster in the quartermaster's corral?—A. Yes, sir.

Q. In the employment of the Government?—A. Yes, sir.

Q. How long had you been in the employ of the Government as teamster?—A. I believe it was about three months; I am not quite sure.

Q. How long did you continue in that employment?—A. Until the post was abandoned.

Q. Who was the corral boss there?—A. A man by the name of Voshelle.

Q. What was his given name?—A. I do not know, sir.

Q. Voshelle, the corral boss?—A. Yes, sir.

Q. You heard the Tate incident spoken of, did you not?—A. Yes, sir; I heard of it.

Q. Did you have any talk with Mr. Voshelle, or did he make any remarks about that?—A. I heard him say the morning after that incident that he hoped that the niggers would go down there and shoot the town up; and he cursed and swore, and so forth.

Q. Did you hear any other talk of Mr. Voshelle?—A. Yes, sir; I heard him in Mr. Tillman's saloon make a remark.

Q. What was that, and when?—A. I believe it was the next day. I think it was about the 7th.

Q. The next day after what?—A. I think it was about the 7th of the month.

Q. Of August?—A. Yes, sir.

Q. What did you hear him say then?—A. Mr. Adams asked him how the niggers were behaving. He said, "They are behaving all

right now, but just wait until pay day and they will come out here and shoot this damn town up."

Senator FORAKER. Repeat that, please.

The WITNESS. He said that they were behaving all right now, but he said, "You just wait until pay day and they will come down here and shoot this damn town up, and I will come with them." Then I turned around and walked out.

By Senator WARNER:

Q. Did you hear him make any other threats?—A. He had a Winchester sporting rifle that I wanted to get off of him.

Q. What is that?—A. He had a Winchester sporting rifle that I wanted to trade my saddle for, and he said he would trade with me, but kept putting me off, and after this shooting occurred I went to him and asked him did he want to trade; and he says, "No; them damn citizens down there in town might break out again, and I would need it." I turned around and left him then. I didn't ask him any more about it.

Q. Where were you living when you were employed there? You were in the fort, were you?—A. Yes, sir.

Q. Inside?—A. Yes, sir.

Q. Are you a married man?—A. Yes, sir.

Q. Where were you living with reference to the ordnance storehouse?—A. I was living in the building numbered "51;" right there behind it—a little house.

Q. A little house numbered "51" on the map?—A. Yes, sir; marked "Ordnance sergeant's quarters."

Q. Were you there the night of the shooting?—A. Yes, sir.

Q. Did you hear anything of the shooting?—A. No, sir; I did not.

Q. A night or two before this shooting did anything occur at this ordnance storehouse?—A. No, sir.

Q. Do you remember anything occurring there at any time—some one trying to break in at the ordnance storehouse?—A. I think it was the night of the 25th; the morning that the niggers left Fort Brown; the morning that they left town there some one tried to break into the arsenal.

Q. How far was your house from the ordnance storehouse—that is, your quarters?—A. About 50 feet, sir.

Q. About what time in the morning was that?—A. It was about 3 o'clock in the morning.

Q. Were you awakened by the noise?—A. Yes, sir; I was awakened by the noise.

Q. I will get you to state what you saw, now, who it was that tried to break into that ordnance storehouse.—A. I came out on the porch and I seen three men there at the arsenal door. I asked them what they were doing, and they started to run.

Q. Were they colored men or white men?—A. Two of them were colored men—had soldiers' uniform on—and one had citizen's clothes on.

Q. Were they all colored men?—A. No, sir.

Q. How many of them were colored men?—A. Two.

Q. Two. Had any progress been made towards breaking open that storehouse?—A. Yes; they had it partly pried open—the folding doors.

Senator WARNER. Take the witness.

By Senator FORAKER:

Q. How long have you lived in Brownsville?—A. Six years, sir.

Q. What is your business?—A. I am driving the street sprinkler at the present time.

Q. Driving the street sprinkler?—A. Yes, sir.

Q. In Brownsville?—A. Yes, sir.

Q. How long have you been employed in that way?—A. About one month, sir.

Q. What had you been doing before you got that employment?—

A. Well, I had been in the restaurant business.

Q. Where were you located?—A. I was located between Thirteenth and Twelfth streets on Elizabeth.

Q. Between Thirteenth and Twelfth streets. How far from Tillman's saloon?—A. About four doors, towards the post.

Q. Four doors towards the fort?—A. Yes, sir.

Q. What was the name of your place?—A. The American Restaurant.

Q. The American Restaurant?—A. Yes, sir.

Q. Were you the sole proprietor?—A. Yes, sir—myself and wife.

Q. Yourself and your wife opened that house and conducted that restaurant?—A. Yes, sir.

Q. How long were you engaged in conducting that business at that place?—A. At that place, about three months, I believe—two months.

Q. Two months?—A. Yes, sir.

Q. Now, what two months were they?—A. September and October.

Q. Of what year?—A. Of last year.

Q. Of last year?—A. Yes, sir.

Q. What were you doing between the time that you went to driving the sprinkling cart and quit running the restaurant?—A. I was not doing anything.

Q. You were idle all that time?—A. Yes, sir.

Q. No work at all?—A. No, sir.

Q. What were you doing before you started the restaurant?—A. Working for the Government.

Q. In what capacity?—A. Teamster.

Q. That was at the corral?—A. Yes, sir.

Q. How long have you been working there?—A. I think I started as teamster—I am not positive—the 1st of June.

Q. In 1906?—A. Yes, sir.

Q. What had you been doing before that?—A. Well, I was bossing a gang of Mexicans that was putting brush in the river.

Q. Doing what?—A. Fixing the river bank—putting brush in there.

Q. Putting brush in there?—A. Yes, sir.

Q. To stop the wash of the banks?—A. Yes, sir.

Q. How long had you been at that kind of work?—A. Well, I had been there, I think it was, close on to two months.

Q. When were you mustered out of the Army?—A. I was mustered out in 1900.

Q. 1900?—A. Yes, sir.

Q. You say you were nine years in the Army?—A. Yes, sir.

Q. You went in there in 1891, then?—A. In 1891; yes, sir.

Q. And served in the Fifth Cavalry until 1900?—A. Yes, sir.

Q. And where did you serve?—A. I served in Fort Reno, in Fort Brown, San Antonio, and Porto Rico.

Q. Porto Rico?—A. Yes, sir.

Q. You did not go to the Philippines?—A. No, sir; I did not go to the Philippines; I got sick.

Q. Was your service continuous for these nine years?—A. Yes, sir.

Q. Have you ever had any trouble of any kind; ever been arrested, or anything of the sort?—A. I never have; no, sir.

Q. You never have at all?—A. No, sir.

Q. You have never had any trouble in the Army?—A. No, sir.

Q. You were mustered out as a sergeant?—A. Yes, sir.

Q. You were engaged in driving a team for the Government during the time the colored troops were there?—A. Yes, sir.

Q. Who else was engaged there in that way?—A. Well, I believe there were four soldiers, and four citizens, counting myself.

Q. Who were the other citizens?—A. John Moore, a colored man; George Miller—

Q. Is he a colored man?—A. George Miller? No, sir.

Q. George Miller. Well, who else?—A. Richard Miller.

Q. Yes.—A. And myself; and Voshelle was corral boss.

Q. None of these men whose names you have given—that is, Moore or the two Millers or Voshelle—had anything to do with this regiment? I mean, they were not members of the colored regiment?—A. No, sir.

Q. Voshelle was the corral boss there before the colored regiment came, was he not?—A. Yes, sir.

Q. He was there in that capacity while the Twenty-sixth regiment was there?—A. Yes, sir.

Q. Were you there, employed with him?—A. Yes, sir.

Q. When the Twenty-sixth Infantry was there?—A. Yes, sir; part of the time.

Q. And two of these others were Mexicans, or half Mexicans?—A. Their father was a soldier in the Eighth Cavalry, I believe, and their mother, I think, was a Mexican woman.

Q. Yes; and they were natives of Brownsville?—A. Yes, sir.

Q. And had lived there all their lives?—A. No, sir.

Q. And then there was a colored man who lived in Brownsville?—A. They had not lived there all their lives.

Q. Is that colored man there now?—A. Living about 3 miles from Brownsville; yes, sir.

Q. Where is Voshelle now?—A. I do not know.

Q. Now, you heard Voshelle speak the morning after the Tate-Newton affair, about shooting up the town?—A. Yes, sir; he said he wished the niggers—

Q. That was the first time, was it?—A. Yes, sir.

Q. Where was it that you heard him make that remark which you have recited?—A. At a watering trough in the quartermaster's corral.

Q. How did he come to make that remark to you?—A. There was a couple of negro teamsters there, too.

Q. Who was there?—A. There were a couple of negro teamsters there.

Q. Soldiers?—A. Yes, sir.

Q. Was he talking to them or talking to you?—A. Just talking generally.

Q. Talking to everybody?—A. Yes, sir.

Q. He seemed to be excited over the matter?—A. Well, no, sir. I don't know that he was excited.

Q. This had happened just the night before, had it not?—A. Yes, sir.

Q. He had just heard about it, had he not?—A. I don't know when he had heard about it.

Q. Was he telling you about it, or did you tell him about it?—A. No, sir; he was just talking there about it.

Q. Had you heard it before?—A. Had I heard him before?

Q. No; had you heard of this Tate-Newton affair before you heard him talking, or was that the first you heard of it?—A. No; I had not heard it before.

Q. That was the first you had heard of it?—A. Yes, sir.

Q. What was it he said?—A. He said he wished the niggers would go and shoot the damn town up, and he would go with them.

Q. What did you say?—A. I made a remark to him.

Q. What was it? I want to know what you said to him.—A. I told him that I wished he would be the first one killed that went out there.

Q. What is that?—A. I told him I wished he would be the first one killed that went out there.

Q. You wished that he would be the first one killed if he went out?—A. Yes, sir.

Q. Is that all you said to him?—A. Well, I believe that is about all I said.

Q. That is about all you said?—A. Yes, sir.

Q. Did you and he have any further words about it?—A. No, sir.

Q. Did you have any words with him after that about anything?—A. Not in anger; no, sir.

Q. Not in anger. It was after that that you tried to have a trade with him about the gun?—A. Yes, sir.

Q. You and he remained friends, did you not?—A. I had nothing against him.

Q. You had nothing against him, but you did not like the way he talked about shooting up the town?—A. No, sir; I did not.

Q. And you hoped that he would be the first one that would be killed?—A. Yes, sir.

Q. What did he say in answer to that suggestion?—A. Nothing at all.

Q. Did he say that the negroes were going out to shoot up the town?—A. No, sir. He said he hoped they would.

Q. He simply said he hoped they would?—A. Yes, sir.

Q. You think it was what date when you saw him in the Tillman saloon?—A. It was after that; I ain't sure whether it was the same day or the next day. I ain't sure about it.

Q. This was on the day after the Tate-Newton matter happened?—A. Yes, sir.

Q. It happened Sunday night, August 5, did it not?—A. I believe so; yes, sir.

Q. And this, then, was on the 6th of August—Monday?—A. Yes, sir.

Q. Now, on the following day, the 7th, you stated, did you not, in your examination a moment ago—A. Yes, sir; I think it was the 7th.

Q. (Continuing.) That you talked with him in the Tillman saloon—A. I was not talking with him; no, sir.

Q. You heard him say this?—A. Mr. Adams asked him how the niggers were behaving.

Q. This was on a Tuesday. What was Mr. Adams doing there?—A. I suppose he was taking a drink. He was in there.

Q. Who was he? What was his business?—A. He was driving an ice wagon for the People's Ice Company.

Q. For the People's Ice Company; and he was there, and you were in there, and Mr. Voshelle was in there, and Mr. Tillman. Was anybody else in there?—A. I don't know. Mr. Tillman was there also.

Q. He was there also?—A. Yes, sir.

Q. Did he hear this conversation?—A. I can not say; I suppose he did. He was behind the bar.

Q. And you heard it, and Adams and Voshelle heard it?—A. Yes, sir.

Q. Did anybody else hear it that you know of?—A. I do not know whether they did or not.

Q. What was it he said?—A. He asked how the niggers were behaving. He said they were behaving all right just now; but he said, "Just wait until they get paid."

Q. Wait until they get paid?—A. Yes, sir.

Q. Then what would happen?—A. He said, "They will come out here and shoot this damn town up, and I will come with them."

Q. What happened after that?—A. I don't know, sir. I turned around and walked away.

Q. That offended you, you mean?—A. No, sir.

Q. Did you not make any response as you did the former time?—A. No, sir; I turned around and went away.

Q. Did you not tell him that you hoped that if he came out he would be the first one to be killed?—A. No; when I heard that, I just turned around and walked away.

Q. What right had this man, Voshelle, to talk for the negro soldiers?—A. I don't know.

Q. He had not been there with them any longer than you had?—A. No, sir.

Q. Had he any right to speak for them beyond what you had?—A. None, that I know of.

Q. Had you heard any talk of the negro soldiers, of going out and shooting up the town?—No, sir.

Q. Had you heard of any misbehavior on the part of the negro soldiers?—A. I had not seen any misbehavior.

Q. You had not seen any of them drunk and molesting anybody?—A. I had seen them walk down the street in bunches, that is all.

Q. You had seen them walk down the street in bunches, but they had a pass or a permit to go?—A. That is more than I can say.

Q. You do not know anything about that. All you mean to say is that you had seen them walking along the street?—A. Yes, sir.

Q. There was no harm in that, was there?—A. No, sir.

Q. They were on the sidewalk, were they?—A. Yes, sir.

Q. The place made for people to walk?—A. Yes, sir.

Q. Was there any harm in that?—A. No, sir.

Q. Now, that is all that was said there? Voshelle said, "They are all right now, but wait until pay day and they will come out and shoot this damn town up?"—A. Yes, sir.

Q. He seemed to have that on his mind?—A. Yes, sir; he said that he would come out with them.

Q. That is all you heard before the shooting actually occurred, is it?—A. Yes, sir.

Q. Were you there on pay day? Do you remember pay day?—A. No, sir; I do not remember pay day.

Q. Did you not pay attention to this remark of his and look out to see whether they were coming out to shoot up the town?—A. No, sir.

Q. You did not think that he had any right to speak for the soldiers, did you, when you heard him say that?—A. I didn't think he had. He was living in town himself.

Q. You did not think it was necessary to go and tell anybody that the soldiers were going to shoot up the town on pay day, did you?—A. No, sir; I didn't know whether they would or not.

Q. You didn't know whether they would or not—is that what you mean to say?—A. Yes, sir.

Q. If you didn't know whether they would or not, and you were told that they would, why did you not give the alarm in the city; you never told anybody what Voshelle said either of these times?—A. No, sir.

Q. You never went to anybody?—A. No, sir.

Q. And told them about this?—A. No, sir.

Q. Then it did not make any impression on you, did it?—A. No, sir; he was a foul-mouthed man, and I did not pay much attention to him.

Q. He was a loud-mouthed man?—A. Yes, sir.

Q. He had been there for how long?—A. He had been corral boss for several months. I do not know how long he had been there.

Q. He was a loud-mouthed man, and had been a soldier, had he not, just as you had been?—A. Yes, sir.

Q. And there was a sort of bond of union between you, was there, or not, on that account?—A. No, sir.

Q. You didn't think much of what he said?—A. No, sir; I did not pay much attention to it.

Q. You did not attach any serious importance to it?—A. No, sir.

Q. You just thought that he was talking to hear himself talk; was that right?—A. Yes, sir; I thought he was just talking.

Q. I wish you would speak up louder, so that I can hear you.—A. That is what I thought; yes, sir; that he was just talking.

Q. You did not think that the soldiers were really going to come out and shoot up the town?—A. I didn't know it; no, sir.

Q. Do you think that he had any responsibility for shooting up the town?—A. That is more than I can say.

Q. You did not think he had anything to do with it?—A. I don't know, sir.

Q. Did you see him the night of the shooting?—A. No, sir.

Q. Did you see him the next morning?—A. No, sir.

Q. Did you hear him tell where he was when the shooting commenced, and how he got to the quartermaster's department?—A. No, sir.

Q. You did not hear him tell anything about it?—A. No, sir.

Q. You do not know of any of the men there at the corral who were engaged in the shooting?—A. No, sir.

Q. You do not know of a single one who was out of his place, do you?—A. I don't know. I was at home asleep; I could not say.

Q. You were at home sick?—A. Asleep.

Q. Asleep? You did not hear any talk about any of them being away or participating in it?—A. No, sir.

Q. Now, as to this other matter that you spoke of, this effort to break open the ordnance storehouse, that was long after this, was it?—A. It was the morning that the troops left.

Q. The morning of August 25. Can you tell who the men were?—A. Two of them were niggers—had uniforms on.

Q. I wish you would go to the map now, and point out where that house is that you were sleeping in?—A. It is No. 51, sir, right over here [indicating].

Q. Now, you were sleeping in that house?—A. Yes, sir.

Q. And about 3 o'clock in the morning you were awakened by a noise over at that other place; what is the number of that?—A. Fifty-two, sir.

Q. Is the door of that place opposite to that place?—A. Yes, sir.

Q. Are you supposed to be the custodian of it?—A. No, sir.

Q. Can you tell us what was in it?—A. No, sir; I could not tell you what was in it.

Q. Do you know whether there were any ordnance stores in it or not?—A. Well, there was some powder in there, I know.

Q. Some powder in there?—A. In kegs.

Q. How much powder was there in there, can you say?—A. No, sir; but I think there were five kegs in there.

Q. Five kegs of powder?—A. Yes, sir.

Q. Was there a Gatling gun in there?—A. They say there was a Gatling gun in there.

Q. Were there some rifles in there?—A. Of my own knowledge, I don't know.

Q. You were never in there, were you?—A. Yes, sir; I was in there once.

Q. When?—A. It was while I was teamster; I don't know exactly the date.

Q. It was while you were a teamster?—A. Yes, sir. The ordnance sergeant was down there, and had it open, and my little boy went in there, and I went in to get him.

Q. Who was the ordnance sergeant?—A. Mr. Hopkins; Sergeant Hopkins.

Q. That is all you know of any threats to shoot up the town on the two different occasions that you heard this man Voshelle make the remarks that you have spoken of?—A. On three different occasions.

Q. On three different occasions make the remarks that you have spoken of?—A. Yes, sir.

Q. You never heard any further remarks from him or anybody else, did you, on the subject?—A. About going and shooting up the town?

Q. Yes—A. No, sir.

Q. These three men that you saw at the door of the ordnance storehouse, can you give us their names?—A. No, sir.

Q. Was Voshelle one of them?—A. I don't know whether he was or not.

Q. Have you any suspicion that he was one of them?—A. This man looked very much like him; his size and dress.

Q. His size and dress?—A. Yes, sir.

Q. How far was he away from you?—A. About as far as from here to that chair, sir [indicating].

Q. Give the distance in feet. About 6 feet away, are you, only?—A. Yes, sir; about 6 feet.

Q. Could you see him distinctly?—A. I could see him pretty good.

Q. And you went out and called out, "What are you doing here?"—A. And then they run right past my house.

Q. Did they run right by you—past you?—A. They run past my house, and I run out and run towards them. I wanted to see who they were.

Q. They got away before you could tell?—A. They got away before I could see. Two of them had soldiers' clothes on and one had citizen's clothes on.

Q. You were close enough to see them?—A. Yes, sir.

Q. Had you ever seen the two soldiers before?—A. I could not tell that.

Q. Did they have arms?—A. I could not see any.

Q. What were they trying to get in there for, if you know?—A. I don't know, sir.

Q. You don't know of anything in there that they would want, unless it was powder?—A. Powder; and they say there was a gatling gun in there.

Q. Do you think there was one in there?—A. Of my own knowledge, I don't know.

Q. You have heard it said?—A. Yes, sir.

Q. That was at 3 o'clock on the morning of the 25th of August?—A. Yes, sir.

Q. The battalion was already under orders to go?—A. Yes, sir.

Q. And they left that morning about daylight, did they not—shortly after daylight?—A. Yes, sir; they left about an hour after daylight.

Q. At what time?—A. About an hour after daylight.

Q. They got away as early in the morning as they could conveniently. Did you help to move them?—A. I took the major's horses down there.

Q. Major Penrose's horses?—A. Yes, sir.

Q. What time was it you took them down?—A. It must have been about half past 4.

Senator FORAKER. There are several things in the record that I can not find just at this moment, and I will suspend here and finish my examination of this witness in the morning.

Senator OVERMAN. I want to put in the record here the discharge of the witness. It says "Character good, services honest and faithful."

(The paper referred to is here printed in full, as follows:)

ARMY OF THE UNITED STATES.

To all whom it may concern :

Know ye that William Forster, a sergeant of Troop F of the 5th Regiment of Cavalry, who was enlisted on the 3d day of January, one thousand eight hundred and ninety-eight, to serve three (3) years is hereby honorably discharged from the Army of the United States by reason of surgeon's certificate of disability, disease, in line of duty.

The said William Forster was born in Charlotte, in the State of North Carolina, and when enlisted was 26 $\frac{1}{4}$ years of age, 5 feet 9 $\frac{1}{2}$ inches high. Fair complexion, brown (3) eyes, D. brown hair, and by occupation a soldier.

Given under my hand at Fort Columbus, N. Y., this 29th day of June, in the year of our Lord one thousand nine hundred.

GEO. A. CORNISH,
Major, 15th Infantry, Commanding.

Character: No objection to his reenlistment is known to exist except as noted above. Very good.

JOHN S. PHILLIPS,
Capt. & Asst. Surgeon, U. S. A., Commanding Hospital.

(Indorsements on the reverse:) Previous service, 3 years 3 months in Troop G, 5th Cavalry; 3 years in Troop K, 5th Cavalry. Noncommissioned officer: Sergeant since May 9, 1898. Marksmanship, 2d class, 1898. Battles, engagements, skirmishes, expeditions: Spanish-American war, 1898. In U. S. and Porto Rico. Wounds received in service: None. Physical condition when discharged: Very poor. Married or single: Single. Remarks: Service honest and faithful.

JOHN S. PHILLIPS,
Capt. & Asst. Surgeon, U. S. A., Commanding Hospital.

By Senator BULKELEY :

Q. What did they do with the powder in the fort, the soldiers did not use it?—A. I don't know, sir.

Q. They used cartridges?—A. They used powder, you know, to fire the reveille gun and at retreat.

Q. Loaded with loose powder, was it?—A. Loaded with powder in sacks. I don't remember now about that last gun, but when I was soldiering there they used about pound sacks.

By Senator OVERMAN :

Q. Do you know whether or not there were any rifles in that storehouse?—A. I do not know whether there were or not.

By Senator BULKELEY :

Q. Or whether there were any cartridges there?—A. I don't know. I seen the powder in there; the powder was in kegs.

At 4.55 o'clock p. m. the committee adjourned until to-morrow, Tuesday, May 28, 1907, at 10.30 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, May 28, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Lodge, Hemenway, Warner, Pettus, Taliaferro, Foster, Overman, and Frazier.

TESTIMONY OF WILLIAM FORSTER—Continued.

By Senator FORAKER:

Q. When was it, Mr. Forster, that you had a conversation with Mr. Voshelle in regard to making a trade with him for his rifle?—

A. I had had a conversation with him a couple of weeks before the shooting.

Q. A couple of weeks before?—A. Yes, sir.

Q. Where was that conversation?—A. Down in the corral.

Q. Where?—A. In the corral.

Q. In the corral?—A. Yes, sir; he had his gun down there in the corral.

Q. What kind of a gun was that?—A. A sporting Winchester.

Q. A sporting Winchester?—A. Yes, sir.

Q. Did he have any other kind of a gun?—A. Not that I know of, sir.

Q. Do you know of his getting a gun from anybody about that time? Or was it a gun that he had already?—A. I believe that Lieutenant Leckie gave him that Winchester.

Q. Lieutenant Leckie, you believe, gave him this gun?—A. Yes, sir.

Q. This Winchester?—A. Yes, sir.

Q. When did Lieutenant Leckie give him this gun?—A. I believe it was when Lieutenant Leckie went to San Antonio.

Q. Do you remember when he went to San Antonio?—A. He went with the Twenty-sixth Infantry.

Q. Did he remain until the battalion left, or did he go ahead of the battalion?—A. I am not sure; I will not say.

Q. What position did Lieutenant Leckie have at that time?—A. He was quartermaster.

Q. He was the quartermaster, and as quartermaster he was in charge of the corral, was he?—A. Yes, sir.

Q. And how long was it before you had this talk with Voshelle that Lieutenant Leckie had given him this gun?—A. Well, I couldn't remember the date, sir.

Q. How long was it after he got the gun from Lieutenant Leckie that you had the talk with him; shortly afterwards, or some time afterwards?—A. Well, I could not remember what time it was. He came to me himself and said that he wanted my saddle.

Q. He wanted your saddle?—A. Yes; and said that he would trade me the gun for it. I told him all right, that I would trade with him.

Q. Then what happened?—A. He kept putting me off, and took his gun down home.

Q. He did take it down home?—A. He did take it home after that.

Q. Down in town?—A. Yes, sir.

Q. He had it down in town at his house the night of that shooting, had he?—A. That I could not say, sir.

Q. And what was it he said about using that gun and not wanting to part with that gun?—A. I asked him if he was going to trade with me and he said, "No; the people downtown might want to break out again and I might want to use it."

Q. Was that after the shooting?—A. Yes, sir. He might need it; that is what he said.

Q. What is that?—A. He said they might break out again and he might need it.

Q. You said a minute ago it was about two weeks before the shooting, I understood you. Did you mean two weeks after the shooting?—A. No, sir; I mean when we were talking about trading first.

Q. That was two weeks before?—A. Or something like that.

Q. Had the colored troops come there yet?—A. Yes, sir; they were there.

Q. How long had they been there?—A. Well, they had been there a day or two, I think.

Q. In your first talk about trading your saddle for that gun there was no talk about using the gun in shooting up the town or for defense against the people of the town?—A. No, sir.

Q. That remark was made after the shooting, was it?—A. Yes, sir.

Q. He said that he would keep it because they might break out again and he might need it?—A. Yes, sir.

Q. Who was it he said might break out again?—A. The people downtown.

Q. The people downtown? He was not referring to the soldiers?—A. I guess not; they were not downtown.

Q. You had access to the reservation all the time after the shooting until the colored troops left, did you not?—A. Yes, sir; I lived there.

Q. All the time?—A. Yes, sir.

Q. And it was on the morning of the day that they left that you heard this noise at the magazine, the storehouse?—A. Yes, sir.

Q. On page 230 of Senate Document 155 I find an affidavit made by John H. Hill, in which he says, among other things:

Affiant doth further say that on August 24 between the hours of 1 a. m. and 2 a. m., while on guard duty, post No. 6, he saw six or more citizens around the magazine, and that he sent Private James Sinkler to report same to Sergeant Harris, commander of the guards, and said James Sinkler returned with Private James Smith, who made an investigation and found magazine lock broken open and in the door was an iron wedge where attempt had been made to pry said door open. Said facts were reported to commanding officer of day and quarter-master-sergeant.

JOHN H. HILL.

In this affidavit this man Hill, who was a private soldier, on duty, fixes the time when he knew of something of this sort being done as on the morning of the 24th. I understood you to say it was the morning of the 26th?—A. It was the morning they left there, whatever morning that was.

Q. You could not be mistaken about that?—A. No, sir.

Q. And you saw three men?—A. Yes, sir; I saw three men.

Q. One a white man and two colored men?—A. Yes, sir.

Q. And you fix the time at 3 o'clock in the morning?—A. Yes, sir.

Q. How did you fix that time?—A. I said it was about 3 o'clock in the morning. I went down and notified the guard, and two of them went down with me to the magazine.

Q. You went down and did what?—A. I went down and notified the guard.

Q. You found a sentinel on duty?—A. I found one on duty about 150 yards from the magazine.

Q. There is the magazine on that map. I wish you would take the pointer and indicate about where you found that guard.—A. I found the guard right here, sir [indicating].

Q. You found the guard in front of the building marked "granary?"—A. Yes, sir.

Q. What is that numbered?—A. That is numbered 53. It is called "Old Cavalry Barracks."

Q. Do you know what soldier that was?—A. There were six or seven soldiers there.

Q. That was a cossack post, was it?—A. Yes, sir.

Q. And there was a corporal in charge?—A. I don't know whether it was a corporal or a sergeant.

Q. Do you know to whom you made your report?—A. I reported to the sentry.

Q. Was the sentry walking up and down?—A. There was a sentry standing there, in front, and the rest of them back on the porch.

Q. Did he take any steps, then?—A. There was one of the men stepped out and sent two men down with me.

Q. And they went with you down to this place?—A. Yes, sir.

Q. And made an examination of it?—A. Yes, sir.

Q. Two soldiers?—A. Two soldiers.

Q. Do you know whether they were Sinkler and Smith?—A. I don't know the men; no, sir.

Q. You did not hear their names mentioned?—A. No, sir.

Q. Did they seem to be surprised about it?—A. Well, I don't think they seemed to be much surprised about it; no, sir.

Q. How did you know it was 3 o'clock in the morning?—A. After I took them up there, I went back to the corral and it was just twenty minutes past 3.

Q. When you looked at the clock in the corral?—A. Yes, sir.

Q. When was it that you looked at the clock?—A. It was just twenty minutes past 3 o'clock when I looked at the clock. I went and got my coat and then went back to the corral.

Q. Where was it you saw the clock in the corral? Just point it out on the map.—A. Right here [indicating].

Q. What is that number?—A. Number 60.

Q. After you took them down to this storehouse, did you remain with them afterwards, when they inspected the magazine?—A. No, sir; I just showed them where they had been trying to break in, and then I went into the house and got my coat and went down to the corral.

Q. Did you remain up all the rest of the night?—A. Yes, sir.

Q. Did you notice that there was a lock broken?—A. I never seen the lock.

Q. Did you see anything of an iron wedge?—A. Yes, sir.

Q. Where was that?—A. Stuck in between the two doors.

Q. When did you see that?—A. I seen it before I went down to notify the sentry.

Q. Before you went down to notify the sentry?—A. Yes, sir. I walked over there, and I went down to the corral.

Q. When these men were discovered, they broke and ran, and you chased them for some distance?—A. I ran out and tried to get close enough to them to see who they were.

Q. Which way did they run, in which direction?—A. They ran in this direction, across there [indicating on map].

Q. That would be northeast, would it?—A. Something like east.

The CHAIRMAN. According to that dart on the map it would be almost straight east.

Senator FORAKER. Yes; they ran east.

By Senator FORAKER:

Q. They ran up towards those two other buildings up there; is that it?—A. Yes, sir; there is a building there that is not on the map. There is an old artillery building that is away back off here [indicating].

Q. An old building?—A. Yes, sir.

By Senator WARNER:

Q. That is east of your house where you lived?—A. Yes, sir; there is an old artillery barracks there, about 200 feet long.

By Senator FORAKER:

Q. On that map there is a road indicated as going through the reservation up in the direction you point. They ran up that way, did they?—A. Yes, sir; they ran right across this way, from here right across there [indicating]; they ran right by my house.

Q. They ran almost in the opposite direction to the barracks, did they, then?—A. Yes, sir.

Q. What is out in front in the direction they were going?—A. There is Mr. Combe's pasture—chapparral.

Q. Chapparral?—A. Yes, sir.

Q. That is vacant ground out there?—A. Yes, sir; there is a vacant space between that and the fence.

Q. Is there a country road beyond?—A. Yes, sir; about 400 yards beyond, out there.

Q. They were running in that direction?—A. Yes, sir.

Q. You never saw or heard of them afterwards?—A. No, sir; not that I know of.

Senator FORAKER. That is all.

By Senator WARNER:

Q. This gun that Voshelle had that was given to him by Lieutenant Leckie, do you know that by what Voshelle told you, or how do you know that he gave it to him?—A. I heard Lieutenant Leckie tell him to come up and he would give it to him.

Q. What is that?—A. I heard him tell him to come up and he would give it to him.

Senator WARNER. That is all.

By Senator FORAKER:

Q. Who employed you there to work in the corral?—A. Lieutenant Leckie, sir.

Q. You applied to him for the position, did you not?—A. Yes, sir; I did.

Q. He knows you very well, then, no doubt, does he not?—A. Yes, sir; I think he does.

Senator FORAKER. That is all.

(Witness excused.)

TESTIMONY OF WILLIAM HENRY ADAMS.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Please state your name in full.—A. William Henry Adams.

Q. What is your age?—A. Twenty-nine years, sir.

Q. Are you a married man?—A. Yes, sir.

Q. Where do you live?—A. Brownsville, Tex.

Q. How long have you lived there?—A. Since the 20th day of May, 1903.

Q. 1903?—A. Yes, sir.

Q. Were you ever in the Army, Mr. Adams?—A. Yes, sir; I was in the service, in the First Alabama Volunteers.

Q. The First Alabama Volunteers?—A. Yes, sir.

Q. That was during the Spanish-American war?—A. Yes, sir; during the Spanish-American war.

Q. Did that regiment get over to Cuba?—A. No, sir; they didn't get there; they got down as far as Miami, Fla.

Q. And were you in the service after that?—A. Yes, sir; I reenlisted on the 6th of December, the same year, 1898, in the Second United States Infantry.

Q. For three years?—A. Yes, sir.

Q. Did you serve the three years through?—A. Yes, sir; I was discharged in Manila.

Q. Did you reenlist after you were discharged?—A. Yes; I reenlisted at the Presidio in San Francisco, Cal.

Q. For the Fourth Infantry?—A. The Fourth Infantry; yes, sir.

Q. In what rank were you discharged?—A. Sergeant, each time. I was discharged sergeant each time, sir.

Q. Now, the second time, was it by reason of the expiration of your term of service, or was it that you wanted to get back into civil life that you were discharged?—A. I wanted to get back into civil life; I purchased my discharge.

Q. Under the regulations of the War Department, which enabled you to do so one year after enlistment?—A. Yes, sir; under the same regulation.

Q. And your second enlistment was in what regiment?—A. My second enlistment?

Q. Yes; when you enlisted in San Francisco, what regiment were you in?—A. In the Fourth Infantry.

Q. And what rank did you have when you were discharged from that?—A. A sergeant, sir; duty sergeant. Now, Senator, my second discharge was at the expiration of my term of service. You

know when I reenlisted in San Francisco, that was when I bought my discharge.

Q. Yes; I got confused. I meant your second discharge from the Regular Army. Your first discharge was from the volunteers, and then you had two discharges from the Regular Army.—A. Yes, sir.

Q. What was your business in Brownsville?—A. I held different positions there. The last two years I have been employed by the People's Ice Manufacturing Company as iceman—delivery man.

Q. So that you are on the ice wagon?—A. Yes, sir.

Q. Do you know Mr. Voshelle?—A. Yes, sir; I do.

Q. The corral boss?—A. Yes, sir; I do.

Q. Did you ever have any conversation, or hear any conversation, with him?—A. Yes, sir; I had a conversation with him along about the 7th of August.

Q. Of last year?—A. Yes, sir; of 1906.

Q. Where was that, Mr. Adams?—A. In Tillman's saloon.

Q. Which was known as the Ruby Saloon, at that time?—A. Yes, sir; known as the Ruby Saloon.

Q. Did you deliver ice to that place?—A. Yes, sir; I did.

Q. Who was present at that time, if you know?—A. Mr. Forster was present, and Mr. Tillman, and there were several others standing around there. I didn't pay particular attention to who they were.

Q. What was that conversation, as near as you remember?—A. I asked Voshelle how the niggers were behaving, and he told me, "All right, now." "But," he says, "just wait until they get paid, and they will come down and shoot up the town; and I will join with them."

Q. What did you say?—A. I said, "Oh, no; you would not do anything like that, would you?" And he said, "Yes; I would," with an oath. He added an oath to each word he said.

Q. What did you say then?—A. I just turned around and walked out; I didn't pay any more attention to what he said.

Q. Did you have any drink there, or anything of the kind?—A. Yes, sir; I taken a glass of beer.

Q. Did you have any further conversation with Mr. Voshelle?—A. No, sir; because I got disgusted with what he said there, and didn't care to have any further conversation with him.

Q. Do you know the colored man, Allison, who started a saloon?—A. Yes, sir.

Q. About pay day?—A. Yes, sir.

Q. Did you deliver ice to him at his place?—A. Yes, sir.

Q. It was about pay day, I believe, was it not, that he opened his saloon?—A. Yes, sir.

Q. That was a day or two before the shooting up of the town?—A. A day or two before the shooting up of the town; yes, sir.

Q. What was that conversation with Mr. Allison?—A. Now, Senator, the day before the shooting, or several days before the shooting. I forget exactly what day it was, just a few days, though, before the shooting, he only opened up there, you know, and I, of course, didn't do anything but deliver ice to him.

Q. He opened up the 11th or the 12th?—A. Yes, sir.

Q. And the shooting was on the 13th?—A. Yes, sir; the shooting was on the 13th. The only conversation that I had with him was after the shooting, sir.

Q. After the shooting?—A. Yes, sir.

Q. How many days after the shooting?—A. It was when they reopened up. I think they closed one day, and I think it was on the 14th he opened up there again.

Q. He was closed on the 14th, I guess.—A. Yes, sir.

Q. And then opened on the 15th?—A. Yes, I guess that was about it.

Q. What was your conversation with him?—A. I heard him make the remark to another party—in fact, I asked him, I says, "Why, what was the matter with those fellows?" He says, "Oh, the Lord knows; I guess they were having a little spree, shooting up the town."

Q. Did he understand what you meant, that you were talking about the colored soldiers?—A. Yes. He said that business was dull; they could not get out in the town; the boys were penned up in the post.

Q. That is what he said?—A. Yes, sir; he says, "The Lord only knows; they were out on a shooting spree, I suppose."

Q. Where were you on the night of the shooting?—A. I was at home, in bed.

Q. Where was your house?—A. It was on Washington street, about Washington and Fourteenth, the second house from the corner.

Q. The second house from the corner?—A. Towards the garrison; yes, sir.

Q. Did you hear that shooting?—A. Yes, sir; I did.

Q. Did you see any of the parties that did the shooting?—A. No, sir; I did not.

Q. Did you go out?—A. No, sir; I did not.

Q. Why did you not?—A. My wife was so frightened she was almost in hysterics, and therefore I didn't care to leave her; but I went to the window.

Q. You were awakened by the shooting, were you?—A. Yes, sir; I wasn't sound asleep noway, because I had just been up with my baby, and went back to bed.

Q. Where was the first shooting you heard?—A. In the direction of the garrison, sir.

Q. That is, it came from that direction?—A. Yes, sir.

Q. Then did it come uptown, as they call it, from the garrison?—A. Yes, sir; up the alley.

Q. Is that the alley between Washington and Elizabeth streets that you refer to?—A. Yes, sir.

Q. Are you familiar with the sound of high-power guns, Mr. Adams?—A. Yes, sir; having handled one for nearly five years; I am.

Q. That was the Krag, was it?—A. Yes, sir.

Q. In the Philippines?—A. Yes, sir; and also in Cuba.

Q. You were in Porto Rico, were you?—A. No, sir; not in Porto Rico, just over in Cuba and the Philippine Islands.

Q. You may state, from your experience as a soldier, and hearing the reports of high-power guns, were those guns that night of that character—high-power guns?—A. Yes, sir; they were.

Q. Did you the next morning see any of the exploded shells?—A. Yes, sir; I did.

Q. Where?—A. In the possession of Doctor Combe.

Q. Were you familiar with the new Springfield gun?—A. Not very; only what I have seen of it there at the garrison; they were practicing with it there. The Twenty-sixth Infantry had it and were shooting on the range right there, and I had plenty of opportunity to hear the sound of the reports of those guns. It is something similar to the Krag.

Q. They had a short range right there in the garrison?—A. Yes, sir; right there in the garrison.

Q. Down by the river bank?—A. Yes, sir.

Q. Did you observe those shells that you saw there, to make any observation as to whether, in your judgment, they had been recently fired or not?—A. Yes, sir; I did.

Q. Please state what observation you made.—A. Well, to me they looked as if they had been fired the night before.

Q. Why?—A. Because a shell which has been fired and laid up for a while will corrode, and those had no corrosion. They showed no traces of corrosion at all; they were powder stained.

Senator WARNER. Take the witness.

By Senator FORAKER:

Q. How long did you serve in the First Alabama Volunteers?—

A. Six months, sir.

Q. And then you enlisted in the Second United States Infantry?—

A. Yes, sir.

Q. Where did you enlist?—A. At Anderson, Ala.

Q. And then where did you go with that regiment?—A. From there to Augusta, Ga.

Q. And from there to Cuba?—A. And from there to Savannah, and from there to Cuba.

Q. And then to the Philippines?—A. Yes, sir.

Q. You served out your full three years?—A. Yes, sir.

Q. And then you returned to the Presidio, Cal., at San Francisco, I believe?—A. Yes, sir.

Q. And then you reenlisted in the Fourth Infantry?—A. Yes, sir.

Q. And then you were discharged?—A. Yes, sir.

Q. You went from there to Brownsville?—A. Yes, sir.

Q. What time was that?—A. The 24th of May, 1903.

Q. What company did you belong to of the Fourth Infantry?—

A. C Company.

Q. How many companies of the Fourth Infantry were with you?—

A. Three companies.

Q. What companies were they?—A. C, B, and A.

Q. C, B, and A. or C, D, and A?—A. No, sir; C, B, and A.

Q. What was the name of the captain of your company?—A. Captain Castner.

Q. What is that name?—A. Capt. Joseph C. Castner.

Q. Did your company have any trouble while they were in Brownsville with the citizens?—A. No, sir.

Q. Did anybody in either of the other companies?—A. Well, yes; there was a man in B Company, I understand. I didn't pay much attention to the case though.

Q. What was his name?—A. Brady, I think.

Q. What happened to him?—A. He was killed there.

Q. You have a recollection of that, have you?—A. Yes, sir; I remember of him being killed.

Q. Do you remember the circumstances?—A. No, sir; I do not.

Q. Did you see him after he was killed?—A. No, sir; I did not.

Q. You did not see him killed?—A. No, sir; I did not.

Q. Do you know who killed him?—A. I heard, of course, who killed him, but I don't know.

Q. What did you hear?—A. I heard that a man by the name of Ignacio something—I can not think of his other name—killed him. His first name was Ignacio.

Q. Do you know what became of the man who killed him? Was he arrested and prosecuted?—A. Yes, sir; he was.

Q. Did he not flee to Mexico?—A. Yes, sir; he did; but afterwards he was brought back to the United States.

Q. When was he brought back?—A. After the Fourth Infantry left; I can not tell you the time.

Q. The man was arrested?—A. He was brought back.

Q. Was he brought back or did he return on his own motion?—A. He was brought back, because I know there were extradition papers out for him, and they had been trying to get him.

Q. He was arrested and tried?—A. I understand they acquitted him on account of not having sufficient evidence.

Q. He was acquitted for the want of evidence?—A. Yes, sir.

Q. Where was he tried?—A. In the district court.

Q. At Brownsville?—A. Yes, sir.

Q. And he was acquitted?—A. Yes, sir.

Q. For the want of evidence?—A. Yes, sir.

Q. This soldier, Brady, was shot downtown there somewhere, was he not?—A. Somewhere downtown.

Q. Can you tell us where he was shot?—A. No, sir; because I was not acquainted with the place.

Q. That created a good deal of excitement in the regiment when it happened, did it not?—A. Some; yes, sir.

Q. Do you know of any other troubles that the soldiers had there while you were in Brownsville as a member of the Fourth Infantry or since?—A. Not except that shooting. That is all I know of.

Q. Did not the Twenty-sixth Infantry have some trouble there—a good deal of it?—A. I don't know anything about that, sir. I was confined to my duty quite close, and I never paid any attention to it.

Q. Do you know about a man by the name of Baker, of the Twenty-sixth Infantry, being shot?—A. Baker? I remember of him shooting—they claimed that he shot a policeman there.

Q. You do not know anything about those facts, as I understand?—A. No, sir.

Q. Except in this general way, you have a recollection of them?—A. Yes, sir.

Q. Now, you were in Tillman's saloon on the 7th of August?—A. Yes, sir.

Q. That is where you met Mr. Voshelle?—A. Yes, sir.

Q. Had you ever worked with Mr. Voshelle?—A. No, sir; I had never worked with him.

Q. You had simply become acquainted with him?—A. Yes, sir.

Q. He was the corral boss, I think?—A. Yes, sir; he was the corral boss.

Q. He did not belong to the Twenty-fifth Infantry, did he?—A. No, sir.

Q. He did not belong to any regiment, did he?—A. He had formerly belong to the Twenty-sixth.

Q. He had been a soldier in some other regiment—in the Twenty-sixth, was it?—A. Yes, sir.

Q. And he had been mustered out?—A. Yes, sir.

Q. And discharged?—A. Yes, sir.

Q. And he was in the employment of the Government simply as a corral boss?—A. Yes, sir.

Q. And he had been there how long in that capacity before the colored soldiers came there?—A. Really, I could not tell you exactly. I know that he had been there. I know when he was discharged he accepted the position there with the Government.

Q. How did you come to address him in the way you did in Tillman's saloon? Had you had any talk with him before that time about the soldiers?—A. He having been a soldier himself, and I also, it came natural that I should ask him the question.

Q. Why—did you understand at the time—did he talk about the colored soldiers coming out and shooting up the town?—A. Simply because he was bitter against the city and the citizens of the town.

Q. Was he bitter against the citizens of Brownsville?—A. Yes; and he was a very profane-mouthed man.

Q. And you, as one of those citizens, felt disgusted at his remarks?—A. Yes, sir; I was.

Q. And you did not pursue the matter any further?—A. No, sir; I didn't pay any attention to him after that.

Q. Did you ever hear any of these soldiers talking about shooting up the town?—A. Yes, sir; I have.

Q. Who?—A. I couldn't call their names.

Q. Before this shooting affray?—A. The very night it occurred; yes, sir.

Q. Where was that?—A. Crossing the street right above my house there.

Q. Your house is on the corner of Fourteenth and Washington streets?—A. Not exactly on the corner.

Q. The second house from the corner?—A. Yes, sir.

Q. Towards the fort?—A. No, sir; they were towards uptown.

Q. Your house is the second house towards the fort, I say?—A. Yes, sir.

Q. And they were passing along on Washington street?—A. On Washington and Fourteenth streets, going up Fourteenth.

Q. They were going up Fourteenth in what direction?—A. Going up Fourteenth. I don't know exactly.

Q. Were they going towards Adams street?—A. Yes, sir; down that way.

Q. How many of them were there?—A. Two.

Q. Who were they?—A. I don't know, sir; I know they were negroes.

Q. They were walking on Fourteenth street?—A. Yes, sir.

Q. About what time was this?—A. I suppose about half past 5.

Q. Half past 5 o'clock?—A. Yes, sir.

Q. Were they in uniform?—A. They were in uniform; yes, sir.

Q. Did they have their guns?—A. No, sir; they didn't have their guns that I seen. I know they didn't have their rifles; no, sir.

Q. They did not have any arms, did they?—A. Not that I know of.

Q. Were they talking to you?—A. No, sir; they were talking among themselves.

Q. These two?—A. Yes, sir.

Q. They were talking to each other?—A. Yes, sir.

Q. Was there anybody else there for them to talk to?—A. No, sir.

Q. What was it they said?—A. They were hunting this man Baker.

Q. What is it?—A. They were trying to locate where A. Y. Baker lived.

Q. How do you know they were trying to locate A. Y. Baker?—A. I heard them say that they wanted to find out where he lived; and if they could find him, they would kill him. That was the remark they made.

Q. You heard them say if they could find A. Y. Baker they would kill him?—A. They would fix him; yes, sir.

Q. Where did A. Y. Baker live?—A. On Levee street.

Q. On Eleventh street?—A. No, sir; Levee street.

Q. They were not going in that direction, were they?—A. No, sir; they were not.

Q. They were going in the opposite direction?—A. In the opposite direction.

Q. Were they talking in a pretty loud tone?—A. Yes, sir.

Q. Where were you?—A. Standing on my front steps.

Q. The second house from Fourteenth street?—A. Yes, sir.

Q. And they made this remark, whatever it was, loud enough for you to hear it down there?—A. Perfectly; yes, sir.

Q. They said they were hunting for Baker, and if they could find Baker they would kill him?—A. They would "fix him," or words to that effect.

Q. What was the exact language you heard?—A. That they would fix him.

Q. They did find him, did they not?—A. I don't know whether they did after that or not. I heard that they had went up there to his place and went up in his house.

Q. And they didn't fix him or try to fix him, did they?—A. No, sir; I don't suppose they did, because they were run out.

By Senator WARNER:

Q. What is that?—A. They were run out by Mr. Baker, I understand.

By Senator FORAKER:

Q. They wanted to find him and fix him, and they did not have any arms that you could observe, and they were announcing this on the street in loud tones so that you could hear them that far away?—A. Yes, sir; they were intoxicated.

By Senator WARNER:

Q. What did you say about their being intoxicated?—A. They were in an intoxicated condition.

By Senator FORAKER:

Q. They were intoxicated?—A. Yes, sir.

Q. What kind of looking men were they, light or dark?—A. One of them was rather dark and the other was much lighter. One was really black.

Q. One was dark and one light?—A. Yes, sir.

Q. How large were these men?—A. One looked to me like he was about 5 feet 6 or 7 inches and the other was about 5 feet 6 inches, or something like that.

Q. Did you ever tell this before?—A. No, sir. Yes, I did, too. I told it to Mr. Brown.

Q. Who is Mr. Brown?—A. A. A. Brown. He has a position in the custom-house there in Brownsville.

Q. When did you tell Mr. Brown?—A. It was sometime after the shooting, sir; I forget now exactly what date.

Q. You did not appear before the citizens' committee?—A. No, sir.

Q. Nor before Mr. Purdy?—A. No, sir.

Q. Nor before the court-martial?—A. No, sir.

Q. This is the first time you have ever testified?—A. Yes, sir.

Q. What did you do about that, when you heard that remark made?—A. When I heard the remark made?

Q. Yes.—A. I got up off my porch and went out to the edge of the sidewalk, of Fourteenth street, and I saw them stop and begin talking to a young lady.

Q. What happened then?—A. Then I went back in the house and got my pistol and came out.

Q. You left them talking to the young lady?—A. Yes, sir.

Q. And went back and got your pistol?—A. Yes, sir.

Q. What kind of pistol did you have?—A. A .45 Colt.

Q. A .45 Colt?—A. Yes, sir.

Q. What kind of cartridge does that shoot?—A. It shoots a .45 caliber cartridge, the ordinary pistol cartridge.

Q. Is it a metallic cartridge?—A. Yes, sir; it will shoot either cartridge.

Q. Has the bullet a metallic jacket on it?—A. No, sir; just a lead bullet.

Q. Just a lead bullet?—A. Yes, sir.

Q. All those .45 Colts have simply a lead bullet?—A. Yes, sir.

Q. They do not shoot a steel-jacketed bullet?—A. None that I have ever seen.

Q. And when you got that pistol, then what did you do?—A. I came back to the corner, and they had left.

Q. Where was the young lady then?—A. She was standing on the porch, and I asked what conversation they had had with her, and she said they were inquiring about where Mr. Baker lived.

Q. Who was the young lady?—A. A sister of Mrs. Roe.

Q. What did she say they inquired of her?—A. She said that they asked her where Mr. Baker lived, and she told them she did not know.

Q. She told them she did not know where Mr. Baker lived?—A. Yes, sir.

Q. Is that all they said?—A. That is all that was said.

Q. And then they went on?—A. Yes, sir.

Q. She did not complain of any incivility?—A. No, sir. I asked her if they had said anything to her.

Q. And you did not observe any incivility?—A. No, sir.

Q. Just where did that conversation take place with that young lady?—A. It is the second house from the corner on Fourteenth street, going down towards Adams.

Q. That is, they had crossed Washington, had they?—A. Yes, sir.

Q. And they were between Washington and Adams streets?—A. Yes, sir.

Q. And on which side of the street?—A. The left-hand side of the street.

Q. They were on the left-hand side as they were going up?—A. Yes, sir.

Q. And they were on the left-hand side near your house, on Washington street?—A. Yes, sir.

Q. They were on the left-hand side of Fourteenth when you heard them?—A. Yes, sir; on the left-hand side.

Q. So that they were a distance from you of the width of the street, and then the house that was between you and the corner?—A. Yes, sir.

Q. They were distant from you about how far when you heard that remark?—A. I should judge they were about, maybe, 65 feet.

Q. Sixty or 65 feet away from you?—A. Yes, sir.

Q. And yet they were talking loud enough for you to hear distinctly?—A. Plenty loud.

Q. You can not be mistaken about that?—A. No, sir; I know that I am not.

Q. Did they call out to you to know where Mr. Baker lived?—A. No, sir; they did not ask me.

Q. They did not ask you?—A. No, sir.

Q. Did they see you there?—A. If they did, I didn't discover it.

Q. They did not look in your direction?—A. No, sir.

Q. Did they seem to be angry?—A. Yes, sir.

Q. Very angry. What had Baker done, do you know?—A. I heard that he shoved a man off of a walk coming up from the river. I don't know anything about that.

Q. When had he done that?—A. Really, I couldn't tell you.

Q. Did you know that at that time?—A. I did; yes, sir.

Q. You had heard that already, had you?—A. Yes, sir.

Q. You knew Mr. Baker very well, did you not?—A. Yes, sir.

Q. And you knew where he lived?—A. Yes, sir.

Q. And you knew they were going in the wrong direction at the time?—A. Yes, sir.

Q. Did you take any steps to warn Mr. Baker of his danger?—A. I did not.

Q. Why did you not?—A. Well, I knew that he was a man who was capable of taking care of himself.

Q. He was a friend of yours, was he not?—A. Not a particular friend.

Q. Here were two drunken negroes hunting him to fix him, and yet you didn't send him any word?—A. No, sir; I did not.

Q. Now, about this talk you had with Mr. Voshelle, a little bit further. He said that he would go out and help them to shoot up the town?—A. Yes, sir; he said that he would go out and help them.

Q. Had you before that time heard him express hostility or animosity towards the citizens of Brownsville?—A. Yes, sir; I had; but then, on that particular occasion, I didn't care to have any more conversation with him.

Q. Where, before that time, had you heard him talking in a hostile way about the citizens of Brownsville?—A. In the post, sir.

Q. In the post?—A. Yes, sir.

Q. Whereabouts in the post?—A. Down at the corral.

Q. At the corral. What were you doing at the corral, delivering ice?—A. No, sir. I did deliver ice in the post, too; yes, sir.

Q. What were you doing there at that time?—A. I had not anything to do at that time, and I was loafing around the post.

Q. You were loafing around in the post, and were down at the corral and heard Voshelle say this?—A. Yes, sir.

Q. When was this?—A. I could not give you the date.

Q. Was that after the colored soldiers came?—A. Yes, sir; and before, also.

Q. And before that also?—A. Yes, sir.

Q. Had he had any trouble with the citizens of Brownsville?—A. Not that I know of.

Q. He just seemed to be bitter against them?—A. I don't know of his having any trouble with them; no, sir.

Q. Were other soldiers bitter against the citizens of Brownsville?—A. No, sir.

Q. He is the only one you know of?—A. He is the only one I know of; yes, sir.

Q. Did you not ask him what was the trouble with him?—A. No, sir.

Q. He being the only one, I should think you would naturally have some inquiry in your mind as to what the trouble was.—A. I didn't ask him; no sir.

Q. You never asked him anything about it?—A. No, sir.

Q. Did Mr. Tillman make any remarks when he said that the negroes would come out and shoot up the town?—A. No, sir.

Q. And that he would come out and help them?—A. No, sir; he did not.

Q. About this conversation with Allison, now; you knew Allison?—A. Well, I knew of him. I wasn't personally acquainted with him, but knew the man who rented him the saloon.

Q. Who rented him the saloon?—A. Mr. Crixell.

Q. Crixell?—A. Crixell Brothers; yes, sir.

Q. Crixell Brothers rented him the saloon?—A. Yes, sir.

Q. Did you take the first installment of goods to him that he opened up with?—A. I taken the first installment of ice to him; yes, sir.

Q. You took the first installment of ice to him?—A. Yes, sir.

Q. And when was that, can you tell?—A. No, sir; I can't really state. It was just the day before pay day, I believe; something like that.

Q. You think the day before pay day?—A. Yes, sir.

Q. Was it not the day of pay day?—A. Now, I couldn't tell you exactly when the soldiers got paid, because I didn't pay any attention to it.

Q. They were paid on Saturday, the 11th.—A. On Saturday?

Q. The 11th.—A. That is the day I delivered the ice to him.

Q. On Saturday?—A. Yes, sir; I remember that.

Q. What time did he get his beer when he opened up?—A. I don't know. I just delivered him ice and went on my route.

Q. Did you put the ice in the ice chest?—A. Yes, sir.

Q. Did he have any beer at the time?—A. No beer yet; no, sir.

Q. No goods yet?—A. No, sir.

Q. He got the goods later that day?—A. Yes, sir.

Q. When did you next see him?—A. I saw him there Sunday morning. I delivered ice to him again.

Q. You delivered ice again Sunday morning?—A. Yes, sir.

Q. What was going on about the place Sunday morning when you delivered the ice?—A. There was a crowd around there drinking, of course.

Q. How big a crowd was there in there?—A. I suppose thirty-five or forty.

Q. How many were there there on Saturday when you delivered the ice?—A. There wasn't any; only himself and his helper.

Q. Did you have any talk with him on Sunday?—A. On Sunday; no, sir.

Q. When did you next deliver ice there?—A. The next ice I delivered was when they opened up after that shooting; I don't remember when it was.

Q. You did not deliver any on Monday?—A. No, sir.

Q. You did not see him on Monday?—A. No, sir.

Q. And when he opened up on Tuesday, the second day after the shooting, that is the day that you delivered ice?—A. Yes, sir.

Q. Were there many people around his place then?—A. No, sir; not at all.

Q. Then you had this conversation you have detailed. What was that conversation, now? Please repeat it again, just as it occurred.—A. Why, he made the remark that business was light; that there wasn't much doing. I asked him what was the matter with those fellows, and he said that he didn't know, he guessed they were just out on a shooting spree, shooting up the town.

Q. What?—A. He said, "The Lord only knows." He said they were out on a shooting spree, he supposed, just taken a notion to shoot some.

(The last two questions and answers were read by the stenographer.)

By Senator FORAKER:

Q. Just taken a notion to shoot some?—A. Yes, sir.

Q. Did you take it from his remark that that was a habit with those men, to go out and shoot up a town?—A. It appeared to me it was; yes, sir.

Q. That is the idea you formed?—A. Yes, sir; that is the idea I formed.

Q. And from the remark he made you thought that the soldiers had done the shooting, and that he knew all about it?—A. Yes, sir; I did.

Q. You did not go before the grand jury and tell that, did you?—A. No, sir.

Q. And you did not go before the citizens' committee?—A. No, sir.

Q. And you did not go before anybody until now?—A. No, sir.

Q. How did you happen to come here?—A. Seeing Voshelle's testimony before this committee, it recalled it.

Q. What was there in Voshelle's testimony that caused you to recall all these things?—A. I remembered how bitter he was. I disremember, now, exactly what was in his testimony.

Q. Can you recall any bitterness in Voshelle's testimony towards the people of Brownsville, any expressions of it?—A. Not at the present time; no, sir; because I didn't pay enough attention to it; but I remembered the conversation I had with him, right after reading his testimony.

Q. What is that?—A. I say I can't recollect anything now, but I remembered my conversation with him, immediately after reading his testimony.

Q. I have before me here the testimony of Mr. Voshelle, taken by Mr. Purdy. It was not supposed to be in the interest of the soldiers at that time, or since, that I know of, especially. I do not see any statement in it, and never have seen any statement, that indicated any hostility of feeling towards the citizens of Brownsville, and therefore I wish you would tell me what it was that you saw.

The CHAIRMAN. Voshelle testified here.

Senator FORAKER. Yes; he testified here.

By Senator LODGE:

Q. Do you refer to Voshelle's testimony before Mr. Purdy, or here before this committee?—A. The testimony before this committee, sir.

Q. His testimony here?—A. Yes, sir.

By the CHAIRMAN:

Q. Did you read that testimony taken here, or did you see an account of it in the newspapers?—A. I read it in the newspapers.

Q. And you got the impression from what you read in the newspapers that Voshelle had testified bitterly against the citizens of Brownsville, and then you concluded that you would tell these things, did you?—A. Yes, sir; I did.

Q. Until that time you had not told anybody anything about it?—A. No, sir.

By Senator OVERMAN:

Q. You say that is what refreshed your recollection?—A. Yes, sir; that is what refreshed my memory.

Q. Reading it in the paper?—A. Yes, sir.

By Senator PETTUS:

Q. Do you know where Voshelle was from?—A. No, sir; I do not know what State he was from.

By Senator FORAKER:

Q. What time did you go to bed that night?—A. I went to bed about 9 o'clock.

Q. And were not yet asleep when the firing commenced?—A. I had been asleep and woke up, and had been up with my baby.

Q. And you heard the first shots down where?—A. I heard the first shot that was fired in the direction of the garrison. It sounded to me like it was right in the garrison.

Q. You thought right in the garrison?—A. Yes, sir.

Q. You were over at the second house from the corner of Fourteenth, on Washington street?—A. Yes, sir.

Q. Did it seem to you to be down towards the gate and that part of the garrison?—A. It sounded nearer down this way, sir. It sounded like it was down about the second quarters.

Q. About B barracks?—A. Yes, sir.

Q. It sounded to you like it might be there; but you did not see anything?—A. Not then; no, sir.

Q. You only heard the reports?—A. The reports of the guns.

Q. And those reports sounded to you like high-power rifles?—A. They did; yes, sir.

Q. Did you hear any pistol shots at all?—A. Not that I know of.

Q. These first shots did not sound to you like pistol shots?—A. No, sir.

Q. You did not hear any that night that sounded like pistol shots?—A. Yes, sir; I did later.

Q. Whereabouts?—A. The scattering shots after the firing was over sounded to me like pistol shots.

Q. Can you locate where those pistol shots seemed to come from?—A. No, sir; I can not, because I was occupied in my house with my wife.

Q. You were occupied in trying to quiet your wife, who was frightened?—A. I were; yes, sir.

Q. And you did not go out at all that night?—A. Not at all; no, sir.

Q. Do you keep any other weapons in your house except this pistol?—A. No, sir; that is all I have in my house.

Q. Where did you get that revolver?—A. Where did I get it?

Q. Yes.—A. I bought it right there in Brownsville.

Q. Is that weapon pretty common in the hands of the citizens of Brownsville?—A. No, sir; I don't know that they are.

Q. Are there not a good many of them in the hands of citizens there?—A. I suppose they have them. I don't go in their houses to examine to see what they have, sir.

Q. Now, you say you saw the shells that Mayor Combe had?—A. Yes, sir.

Q. When did you see them?—A. The next morning after the shooting.

Q. The next morning after the shooting. Whereabouts?—A. When I saw them he had them in his hand right there at the corner where Dominguez's horse was killed under him; where his horse fell.

Q. How many did he have?—A. He had five or six at that time.

Q. What caused you to make any special examination of them to see whether they had been fired recently?—A. Simply because of the shooting of the night before.

Q. Did that enter into your mind at all, to look and see whether they had been freshly fired?—A. Why, yes, sir; because I knew that the shells had been fired by the Springfield rifles, and they were picked up in the streets.

Q. And you knew that the negroes had fired them, too, did you not?—A. I was positive, sir.

Q. You were positive of that?—A. Yes, sir.

Q. You were positive of that, although you had not seen any—
 A. Although I had not seen any of the parties.

Q. You knew that from the very first shot, did you not?—A. I had
 formed my opinion.

Q. That is what I mean, you had formed your opinion, and you
 have never changed it?—A. No, sir; I never have.

Q. You have seen nothing and heard nothing to change your opin-
 ion?—A. No, sir.

Q. That is the opinion of everybody in Brownsville, is it?—A. Yes,
 sir; it is.

Q. What made you make a special examination of those shells; that
 is what I want to get at?—A. I don't know, sir; just instinct, I sup-
 pose. I have handled shells myself.

Q. But you remember distinctly and positively that you did make
 an examination to see?—A. Yes, sir; I taken them up like that [indi-
 cating] and looked at them, and I could see that they had been freshly
 fired.

Q. Were there other people taking these shells out of his hand and
 examining them?—A. They had been; yes, sir.

Senator FORAKER. That is all, I believe.

(Witness excused.)

TESTIMONY OF CAPT. HANSON E. ELY, U. S. ARMY.

(The witness was sworn by the chairman.)

By Senator FOSTER:

Q. Captain, will you please give us your name in full?—A. Han-
 son E. Ely.

Q. You are at present a captain in the United States Army?—
 A. Captain, Twenty-sixth Infantry, U. S. Army.

Q. How long have you been in the Army?—A. Two months less
 than twenty years.

Q. Were you in the service during the late war?—A. Yes, sir.

Q. Did you serve in Cuba or the Philippines or Porto Rico?—
 A. I served in the Philippines for three years.

Q. Captain, are you familiar with the rifle now in use in the United
 States Army?—A. Yes, sir.

Q. The Springfield rifle, is it?—A. Yes, sir; called the new mo^del
 Springfield.

Q. Will you explain, please, Captain, the difference, if any, be-
 tween the new model Springfield and the Krag?—A. There is con-
 siderable difference.

Q. Will you please explain it?—A. The barrel is about 5 inches
 shorter than that of the Krag. The chamber is longer, taking a
 longer projectile than that of the Krag. The projectile fired by
 the new Springfield is some half inch longer than that of the Krag.
 There is more powder in the cartridge. The weight of the bullet
 is about the same, but the cartridge case of the new Springfield is
 longer and is cannellured at the end to facilitate ejection by a newer
 process, the end of the Krag cartridge projecting beyond the cylin-
 der of the cartridge case like that [indicating] with tip of cleaning
 rod]. It projects out. Those are the principal points of difference.

Q. And you have also given in that answer, I believe, the principal points of difference between the cartridge used in the Krag and the cartridge used in the new model Springfield?—A. Yes, sir; that comes in with the rifle. The cartridge fits the chamber and the chamber is larger.

Q. Is the cartridge of the Krag easily distinguishable from the cartridge of the Springfield when the whole cartridge is shown to you?—A. Yes, sir; very easily.

Q. Can the cartridge of the Springfield be used in the Krag?—A. No, sir; it can not.

Q. And if so, why not?—A. Because, in the first place, it is longer. and the end of the chamber will stop the cartridge from going fully into the chamber of the Krag; and in the second place, if the chamber was long enough, the lack of this projection which I have described as being on the Krag would prevent its being used. It could not be ejected. The ejection of the Krag is by an ejector on this projection. The ejection of the Springfield is by an ejector which fits into the cannellure, the entire cartridge being smooth on the surface and the cannellure being cut in.

Q. The bullets used in the two cartridges are very similar, though. are they not?—A. They are very much alike. The nose of the Krag bullet is slightly blunter than that of the Springfield, and near the base of the Krag bullet is a cannellure, where the cartridge case grasps the projectile to keep it from slipping out, while in the new Springfield that is not used; there is no cannellure in the outer part of the casing of the projectile.

Q. Are you acquainted with the Marlin rifle, the Winchester rifle, and other rifles?—A. Yes, sir.

Q. Now, can the cartridge of the new model Springfield be used in or shot from the Marlin or from the Winchester?—A. Not to my knowledge. However, I have read an advertisement of the Winchester people where they say they have a rifle which will take this new cartridge; and I read a description of the Ordnance Department's investigation, where, I believe, about 300 of those rifles had been sold that would take the new Springfield ammunition. They traced them, I believe, to the place of sale, most of them.

Q. They are not in common use?—A. No, sir; not at all.

Q. Now, Captain, what is a land?—A. A land is a projection from the interior of the bore of a rifle which takes the form of a helix, extending the entire interior. It is for the purpose of giving a rotary motion to the projectile, so that it will not "tumble," as it were; so that it will take a straight path.

Q. If the cartridge of a new model Springfield is fired from a Winchester rifle, will there be any difference in the lands made by the rifle upon the ball? And if so, state what difference.—A. Yes, sir. The Winchester rifles are made with six lands, while the new Springfield and the Krag also have but four lands. The Winchester lands are less prominent than those of the military rifle, and this projectile would have on it grooves corresponding to the six lands in the Winchester rifle, while if it were fired from the new Springfield, it would have only the four grooves.

Q. And it would have the same number of grooves or lands if shot from the Krag?—A. Yes; the Krag and Springfield lands are very much the same, almost exactly.

Q. Then if the cartridge of the new Springfield is fired from the Winchester, the number of lands upon the bullet would be six instead of four?—A. Yes, sir.

Q. State what a clip is, and what its purpose—its object—is.—A. The clip is a short, flat piece of metal, whose object is to hold together a number of cartridges—in the case of the new Springfield rifle, five—so that these five cartridges may be loaded with one movement. This metal comes around, shaped like that [indicating], and the cartridges slip in, the cannellure engaging these projections, and that cannellure holds the five together, and when that is pressed down [indicating], the cartridge is pressed through this clip, and the clip is thrown away. The five cartridges go immediately into the magazine.

Q. Is a clip used in the Krag rifle?—A. No, sir; it is not. It is loaded singly, from the side.

Q. Just state, please, the difference in loading the Krag and the Springfield?—A. The Krag rifle has a magazine underneath the chamber, which begins on the right-hand side of the piece, and runs under and up into the chamber, opening by a door, as you might call it. Into this door—magazine entrance—you place the cartridges. If you are skillful, you can roll them in three or four at a time, but they place them in generally one at a time. Then this magazine is closed, and then the rifle is ready to automatically load—not automatically, but by motion of the bolt—while in the Springfield this straight clip contains five cartridges which holds them in one line, and those cartridges are pushed down vertically behind the chamber and loaded in that way, and then the clip thrown away; the cartridges being carried in a bandoleer, each, pocket of the bandoleer holding two of these clips, each clip containing five cartridges.

Q. Do you know of any rifle that uses a clip except the new model Springfield?—A. Yes, sir; the Mauser rifle uses a clip, but quite a different clip from the Springfield.

Q. I wish you would explain that.—A. I used to be quite familiar with the Mauser clip. The insurgents used it much in the Philippines. But as far as a detailed technical explanation of its mechanism is concerned, I am not prepared to give it. I can state that this clip is quite different, because I remarked on its difference when I first saw the Springfield clip. It is broader, I think, and there is a spring in the bottom of it that holds the cartridges from slipping out, which holds the projection into the cannellure, which is not in the Mauser.

Q. You can easily distinguish the Mauser clip from the Springfield clip?—A. Yes, sir; very easily.

Q. Now, Captain, I believe you gave your testimony before Mr. Purdy.—A. Yes, sir.

Q. On that occasion were there exhibited to you a lot of shells and cartridges and bullets and clips?—A. Yes, sir.

Q. As having been picked up in and around the streets of Brownsville?—A. Yes, sir.

Q. Did you then identify the shell, the cartridge, and the clip, and the rifle which used those clips and cartridges and bullets?—A. Yes, sir; I identified those shells, cartridges, and clips as being those used in the new Springfield rifle.

Q. They were shown you at the time of your testimony down there?—A. Yes, sir.

Q. And you identified them as clips belonging to the Springfield rifle, and as shells and cartridges used by that rifle?—A. Yes, sir.

Q. You had no doubt about that?—A. No, sir; none whatever.

Senator FORAKER. Those were the ones that were exhibited to the witness before the court-martial?

Senator FOSTER. No; before Mr. Purdy.

By Senator FRAZIER:

Q. You were shown some 33 exploded or empty shells, were you not, by Mr. Purdy?—A. There were a large number. I should judge about that number; yes, sir.

Q. As having been picked up in the streets of Brownsville?—A. Yes, sir.

By Senator FOSTER:

Q. Captain, what is the effect upon one of these steel-jacketed bullets when striking a hard substance; will its course be deflected?—

A. Unless it strikes it directly the course would be deflected, and very likely the steel jacket would be torn. It does not take very much to start the jacket, and then it rips open and sometimes goes into several pieces, and the lead goes out from the jacket; nor does it take much opposition, if it strikes at an angle, to deflect the angle of the course of the bullet.

By Senator LODGE:

Q. What is that jacket of the bullet?—A. It is cupro-nickel; copper and nickel.

Q. They call it a steel jacket, but it is not steel?—A. No, sir; it is a peculiar composition.

By Senator FRAZIER:

Q. Is it a very hard substance? It is not hard like steel, is it?—A. It is very nearly as hard as steel. You see this is thin as tin, but it is difficult to bend [indicating].

By Senator FOSTER:

Q. Have you any knowledge or experience as to the men, the soldiers, cleaning their guns, and the time that it would take to clean a rifle? Take one of these new Springfield rifles, and suppose that it had been shot five or six or seven times, and it had been cleaned before it was shot, what length of time, in your judgment, would it take to clean that rifle so as to remove the powder stains caused by the shooting?—A. If cleaned at once, it could readily be done in two minutes; something like two minutes. If left for half an hour or an hour or so, the powder residuum stays with a good deal of tenacity in the bore, and it would probably take water to loosen it up, and then it would take probably five minutes or more, with access to water.

Q. Could the rifle be cleaned with a thong and brush and rag and oil within the time you state? And if so, state how it could be done—A. Yes, sir. In the butt of the rifle is a receptacle, a hole, in which is a carrier. On this metal carrier is a screw top. That top is screwed off, and from in there is taken a thong about as long as that [indicating]. At the end of this thong is a piece of brass, what you might call a sinker, with a hole in it like that [indicating]. This

they drop through the bore from the muzzle of the piece and take hold of it at the other end, and at the opposite end of the thong is another piece of metal in which a rag is placed, and then you pull that through the bore of the rifle. You could do it in the dark.

Q. I was going to ask you about that. That could be done in the dark as well as in the light?—A. Yes, sir; you could do it with your eyes shut. It could be done in the dark by anybody that knew just where things were, very readily.

By the CHAIRMAN:

Q. Have you ever cleaned any of these rifles?—A. Yes, sir; I have been in a good many competitions, and between ranges they generally run it through the rifle to clean it for the next range.

By Senator TALIAFERRO:

Q. Are those rifles inspected under such circumstances before they go to the next range?—A. No, sir; a man does that of his own volition. That is entirely with the firer. It all rests with him whether he does it or not.

Q. Would that gun pass the ordinary inspection, after that cleaning?—A. Yes, sir; I think it would.

By Senator FOSTER:

Q. Now, about the chamber, would it require any length of time to clean the chamber of one of those Springfield rifles? I ask you if it requires it?—A. No, sir; the chamber does not get the residue of the powder, and while you might get a little dust in there, if you would run a rag in, that would take care of it. Probably there would not be any residue in there at all; there would not be any change in there. The chamber only goes in to there [indicating], and firing does not create any dirt or dust in there.

By Senator FRAZIER:

Q. You mean no powder is sent back into the chamber by the firing?—A. No, sir; none is sent back between this and the chamber. The shell prevents that.

Q. The explosion would not throw any powder back in the chamber, you think?—A. No, sir; it does not dirty it at all.

By Senator PETTUS:

Q. Captain, would there be any difficulty in an expert cleaning one of these rifles in the dark?—A. No, sir; I think not.

By Senator FRAZIER:

Q. Did I understand you a moment ago to say that one of these bullets striking a hard substance, usually it had the effect of splitting or dividing the steel jacket, as you call it, around the bullet?—A. Not usually, perhaps, but very often.

Q. Is it customary, or is it usual, for the jacket to be stripped from the bullet?—A. Yes, sir; the lead goes on.

Q. The lead goes on farther?—A. Yes, sir; and the jacket is sometimes in three or four pieces. You often find them around on the range.

Q. And when you find the lead finally, it may be entirely separated from the jacket?—A. Yes, sir.

By Senator FOSTER:

Q. One of these projectiles passing through ordinary pine 2 or 3 inches thick, would, in your judgment, the course of the bullet be deflected?—A. Not unless it struck a knot, or nail, or something of that kind. If the pine was clear, I do not think it would deflect it at all.

By Senator OVERMAN:

Q. Is there lead inside that coating?—A. Yes, sir.

Q. And if that jacket is torn off, there is lead inside?—A. Yes, sir; lead inside.

Q. Then it is possible for that to be shot into a post, and the jacket come off, and the lead be found in the post?—A. The jacket would probably be found, in that case, sticking into the outside of the post. The lead usually goes farther.

Q. And it is possible that it might go in there, and if you bored it out you would find nothing but the lead?—A. Yes, sir.

By Senator LODGE:

Q. Suppose it went into a wall of brick, or something of that kind?—A. Then the lead might go on in there, and the jacket be kept back.

By Senator OVERMAN:

Q. Then it is almost all lead, in there?—A. Yes, sir; almost all lead. It has a very thin covering.

Senator FOSTER. In this connection I want to introduce the evidence of Captain Ely taken before Mr. Purdy, as found on pages 163 to 170, part 2, of Senate Document 155. That is all that I care to ask him.

The testimony referred to is here printed in the record as follows:

Capt. HANSON E. ELY was first duly sworn by Maj. A. P. Blocksom, and, upon being examined by Mr. Purdy, testified as follows:

Q. What is your full name?—A. Hanson E. Ely.

Q. You are a captain in the United States Army?—A. Yes, sir; captain, Twenty-sixth Infantry, United States Army.

Q. How long have you been connected with the Army?—A. Nineteen years and six months.

Q. Captain, are you familiar with the rifle used by the United States Army at the present time and during the past year?—A. Yes, sir.

Q. What is that rifle called?—A. The new Springfield rifle.

Q. And what is its caliber?—A. Thirty hundredths.

Q. Will you describe in a general way the ammunition which is fired from that rifle?—A. The ammunition which is ordinarily used is that made by the Ordnance Department or the United States Cartridge Company. It is a cartridge about $3\frac{1}{4}$ inches in length, has what is called a bottle-neck shell, and a bullet about $1\frac{1}{2}$ inches in length, steel jacketed throughout. The shells have on their butt the mark of the Ordnance Department or that of the United States Cartridge Company. These cartridges are carried in brass clips holding five each, similar to this [witness showed one of the clips turned over by the mayor of Brownsville to Mr. Purdy].

Q. Now, Captain Ely, will you state what experience you have had in the use of this new Springfield rifle?—A. I have had more experience with the old "Krag" rifle, though I have had some with the

new Springfield; but the bullet fired and the effects of the bullet are the same in the two, being made practically identical, the new Springfield bullet being a little more pointed, however.

Q. About how long has the new Springfield rifle been in use in the Army?—A. About six to ten months.

Q. Will you state now, Captain, in a general way, the description of the new Springfield, how it is fired, and the number of "lands" in the bore?—A. The new Springfield rifle has a blue-steel barrel, 26 inches in length, yet is a magazine rifle, the magazine of which has what is called a direct feed—that is, it is immediately under the chamber and feeds up by a spring. This magazine is capable of holding five cartridges at the same time. There may be one other in the barrel chamber, which makes the gun practically a six-shot gun—repeater. The loading is effected by means of a bolt. It is technically called a "curved-bolt" gun. The bolt handles extend to the right at right angles to the bolt itself, the bolt being a prolongation of the barrel. The piece is operated by means of rotating the bolt handle upward and to the left until it is almost perpendicular, and then drawing it to the rear. This permits the cartridge to feed up from the magazine, and by pushing the bolt forward and turning the handle to the right the bolt is locked, the piece cocked and ready for discharge. After being discharged the operation is repeated and the shell ejected by means of an ejector spring, which throws it to the right and rear a distance of from 3 to 6 feet, depending on the rapidity of the operation.

Q. Now, Captain Ely, I will show you the empty cartridges (32 in number) and ball cartridges (6 in number) and 3 clips which were turned over to me by the mayor of the city of Brownsville and the sheriff of Cameron County at the time of my investigation there last week in connection with the testimony of the mayor and other witnesses to the effect that they were picked up in the streets in the city of Brownsville a short time after the shooting affray there on the 13th of August, and will ask you whether you have examined those empty shells and ball cartridges?—A. Yes, sir; I have.

Q. Can you state whether they are similar to the ammunition such as is used in the new Springfield rifle in use in the United States Army?—A. Yes, sir; they are. In fact, there is no ammunition made for any other guns in this section like this, and I could practically swear that that ammunition was made for that rifle—the new Springfield.

Q. Now, will you go on and state the difference between this ammunition, if any exists, and the ammunition which is used by other rifles in use in this section of the country outside of the Army?—A. I have hunted in this country, and am acquainted with a number of local hunters, and have shot with them. The only sporting rifles in use in this country to any extent whatever are the Marlin, the Remington, and the Winchester. These rifles I am somewhat familiar with. They could not use the Government ammunition such as you have shown me, because the powder charge is greater, the shell longer, and the projectile longer in the Government rifle than in rifles above mentioned; and while I am familiar with a number of those three makes, those I have seen could not possibly use this ammunition, their chamber being too short for it; and from what I know of rifles that I have not seen—from catalogues and studying the same—I am convinced

that the are none made by these companies that will shoot the ammunition of the new Springfield rifle. I think there is a Savage rifle that will shoot this ammunition, but I have never heard of one in this country. The New York National Guard at one time used the Savage rifle.

Q. Now, Captain Ely, I will ask you what knowledge you have with respect to the bullets of this Government ammunition and the bullets used by the rifles which you have heretofore mentioned?—A. I have hunted with both rifles and the different ammunition used in the different sporting rifles and the Government rifle. It is invariably the case with hunters to use what is called the “soft-nose” bullet, such as is in this cartridge. (Witness marks the cartridge with an “E” with his knife on the side of the case.) When this cartridge is fired—that is, the soft-nose bullet—and the projectile strikes deer or other objects, the lead which is on the side of the steel case “mushrooms,” as it is technically called, and the caliber of the bullet is practically increased from six to tenfold, giving great shock and great power. This bullet (marked “H”) shows the effect of the striking of this soft-nose bullet and a “mushroom” bullet. The Government bullet projectile is steel covered throughout; is not adapted to hunting, as a deer shot with it will run many miles before falling, if it falls at all. I myself have shot three shots through an antelope with such a bullet and had the antelope to get away, while striking a deer or antelope with the “mushroom” bullet the game seldom gets away, the shock being too great, the hole too large, and the bleeding too heavy.

Q. What effect is had upon the steel jacket when striking hard substances?—A. I have seen hundreds of these bullets, after they have been fired into gravelly ground and hard earth, and the effect on striking rocks or such substance is to tear the jacket from the bullet, sometimes simply breaking it open, sometimes the lead separating entirely from the open jacket, and sometimes the jacket is broken into several pieces, which look like small particles of battered-up tin. The steel jacket of the projector, after being fired, will always show the marks of the “lands” of the bore of the rifle firing it. These “lands” cut into the steel and give the bullet the necessary rotation to keep it from tumbling.

Q. Now, Captain Ely, I will show you a bullet which Maj. A. P. Blocksom picked out of the dining-room door in the house of Mr. Yturria in the city of Brownsville, Tex., on the 1st day of January of this year, and will ask you to examine it and state in your judgment what kind of a bullet it is and all about it.—A. That is a new Springfield bullet, or bullet fired from the new Springfield Government service ammunition, caliber .30. This I can tell by the jacket of the bullet, its length, the shape of its nose, the mark of the four “lands” of the rifle on the bullet, which is deeper than that of the “lands” of any rifles used in this vicinity; and also the rifles used in this vicinity, other than the Government rifles, have a larger number of “lands” in them, and the “lands” are shallower than in the new Springfield.

Q. Now, Captain Ely, I will ask you whether you know of any rifle made which has as small a number of “lands,” to wit, four, as those of the new Springfield rifle?—A. I do not, except probably the Krag. I am familiar with the Marlin, the Remington, and the Winchester rifles, practically the only rifles used in this country, or the rifles

most generally used, and all of these rifles have either six or seven "lands."

Q. Will you explain what "lands" are, and what is their function?—A. The "lands" are projections from the interior of the bore of a rifle which runs spirally from the breech to the muzzle, forming helices. The twist of these "lands" in the Government rifle is one turn to 8 inches of barrel length. These "lands" in the Government rifle are four in number, and they are more prominent, or have greater height, than in other rifles, the ordinary sporting rifles. The purpose of these "lands" is to give a rotary motion to the projectile by the "lands" being forced into the projectile, the projectile following the helices as it is projected from the piece. This rotary motion keeps the axis of the projectile constantly in the same direction, preventing what is called "tumbling," which would occur were it not for this rotary motion.

Q. Captain, can you state, from the marks of these "lands" upon the bullet which I have shown you, that was found by Major Blocksom in the Yturria house, whether that bullet was fired from the new Springfield rifle?—A. I can. It was fired from a new Springfield rifle. It has upon it the steel jacket of it and the marks of the four "lands" which were forced into the jacket as above described. The depths of these marks and their number (four), and the shape of the nose, indicate beyond all question that it must have been fired from the Government rifle—the new Springfield—as the other rifles used in this section of the country have a greater number of "lands," the height of which is less than in the Government rifle.

Q. I will ask you now, Captain, whether you know of any rifle, or have ever heard of any rifle, which would fire a bullet and leave upon it marks of "lands" similar to the marks upon this bullet which I have shown you?—A. I know of no such rifle, except the Krag, nor have I heard of any during my entire experience with rifles and rifle shooting. I will state in this connection that the cup won from the English rifle team by the United States rifle team, after having been taken to this country, was returned to the English rifle team on their protest that the rifles used by the American team were not accurately the military rifle in use by the United States Army, because these barrels used by the American competing team had been especially made with a larger number of "lands" in them, and these "lands" were shallower than in the regular military rifle—the terms of the competition requiring that the military rifle should be used—and the cup was returned.

Q. Now, Captain, I will show you this bullet, indented at the side of the nose, and which Mr. Garza states in his affidavit that he picked out of the top of the wooden cover of the well at the house of Mr. Yturria, in Brownsville, on the 14th day of August, 1906, and will ask you to examine this bullet, which I now show you, and state whether or not it was fired from a new Springfield rifle; and, if so, your reasons for stating.—A. This bullet was fired from a new Springfield rifle, the reasons being the same as above: The marks of four "lands" of the new Springfield rifle are shown distinctly on the bullet, with their greater depth than that of any other rifle used commonly in this vicinity, or used anywhere, so far as I know, and the caliber also is the same as that of the Government rifle.

Q. Captain Ely, I will next show you a bullet which was given to

me, and marked with a star on the flat surface at the base of the bullet, in connection with the testimony of Miss Gertrude Cowen, and which is alleged to have been found in a wardrobe in the house of Mr. Louis Cowen, in the city of Brownsville, lodged between the plate-glass mirror and the wooden back of the mirror, on the day on which Miss Cowen's testimony was taken before me. I will ask you to examine this bullet and state whether, in your opinion, it was fired from a new Springfield rifle; and, if so, your reasons for so stating?—A. In my opinion this bullet was fired from a new Springfield rifle, it having the steel jacket covering the nose, is .30 caliber, has the four grooves made by the four "lands" of the Springfield rifle, having the depth which those "lands" make.

Q. From the examination which you have made of this bullet, which was found in the wardrobe in the Cowen house back of the broken glass, can you state as to whether that bullet could have been fired through two or three wooden partitions before striking the mirror in the wardrobe and still the nose of the bullet be in the condition in which you see it?—A. I can. The velocity of bullets from the new Springfield rifle (about 2,100 feet per second) is so great, and the nose of the bullet being covered with an extremely hard substance, which is a composition, but is ordinarily called steel jacket, it will penetrate about 50 inches of soft wood. I have seen bullets from the Government rifle penetrate a large number of pine boards without having the nose perceptibly defaced in any manner. At the same time I have known bullets to be deflected simply by knots in pine timber.

Q. Now, I will ask you, Captain, if you can account, taking into consideration the place where the bullet is alleged to have been found, back of the glass mirror, for the flattened condition of the base of the bullet, and also taking into consideration the further fact that the bullet was fired through two or more partitions of the Cowen house?—A. From much observation of bruised and mutilated bullets of this character, and the knowledge of the cause of the deflection of the same, I am of the opinion that this bullet was probably deflected from its course by some knot in the wood through which it passed, especially as I saw at one time a soldier wounded in a marker's pit by a bullet deflected by a knot in a pine 2 by 4 which constituted part of the shelter over his head. If this bullet had been so deflected, it probably tumbled, that is, going end over end, in which case it might have struck the thick plate glass with its butt, breaking the glass and falling into the place you have described.

Q. Captain Ely, I have asked you several questions with reference to this bullet [handing same to Captain Ely], alleged to have been found in the wardrobe in the Cowen house. Are you able to state, from the bruised condition of the butt of this bullet, whether or not it passed through some object before coming in contact with the obstacle which produced the deformation?—A. Yes; it must have passed through some such obstacle or the nose of the bullet would have struck first. Some obstacle must have caused a deviation of the direction of the bullet which caused it to tumble, which is the only explanation I can see for causing the deformation at the butt of the bullet.

Q. In this connection, Captain Ely, I will show you the two pieces of metal, which I hold in my hand, resembling bent tin, and which were claimed by Mrs. Cowen to have been found in the drawer of a

dresser through which one of the bullets passed which were fired into the Cowen house on the night of the 13th of August. I will ask you to examine these pieces of metal [hands them to Captain Ely] and to state whether in your opinion they are portions of a bullet or bullets fired from the Springfield rifle?—A. I am fully convinced that these pieces are parts of the cupro-nickel casing or steel jacket of the projectile of the new Springfield ammunition. I have had considerable experience on the rifle range and have examined a very great number of broken-up projectiles, broken by the iron-target frame or stones in the earth, and these are without doubt parts of such a projectile. The hardness and constitution of the metal show it to be the peculiar composition used in this jacket, and not to be tin or any such ordinary substance.

Q. Captain Ely, I will ask you whether it is possible for the jacket of a ball fired from a new Springfield rifle into a frame dwelling house, after having passed through one or more partitions in the house, and into a heavy piece of oaken furniture, such as a dresser, to be broken up and disintegrated into small particles of metal resembling tin, such a I show you, and which were claimed by Mrs. Cowen, I believe, to have been found in one of the drawers of her dresser on the morning after the 13th of August, 1906?—A. Yes, it is entirely possible. The bullet would be so broken probably if it touched a nail or other hard substance in the wall or the dresser, and when once the jacket is split it generally breaks into several pieces or is entirely deformed, as the lead then forces itself away from the jacket, and the penetration of the pieces of the jacket is very small, and the drawer would readily retain them while the lead portion passed on through.

Q. Now, Captain Ely, I will show you these three portions of metal which were given to Major Blocksom by Mr. Garza, and which he testified were found in his house on the morning of the 14th day of August, on the dining-room floor, near a bullet hole in the bottom of the dresser, and will ask you to examine those pieces of metal and state whether in your opinion they are portions of the steel jacket or covering of a bullet fired from the new Springfield rifle?—A. Yes; these are undoubtedly portions of the jacket of such a projectile, especially as one piece distinctly shows the base of the jacket, though somewhat deformed. I will say in this connection that to one not accustomed to the peculiar deformations on the jacketed bullet the parts of the jacket might seem like pieces of tin or other substance. Therefore, this morning I dug from the rifle butts at Fort Sam Houston these projectiles and ragged pieces of projectile jackets [hands them over to Mr. Purdy] to show the similarity of the pieces in evidence and these which I know are parts of projectiles coming from the new Springfield rifle; and also the unbroken bullets would show the marking of the "lands," described in my testimony, to be exactly similar to such markings on the projectiles in evidence: the caliber to be the same, the length the same, the covering of the same material; the number of "lands" the same, and their depth the same.

Q. Now, Captain Ely, I want to ask you a question about another matter. From your experience as an army officer in charge of enlisted men, are you able to state whether it is possible for a private to secure and retain in his possession a dozen or more rounds of cartridges without it appearing upon the records of the ammunition

that are kept, and without the knowledge of his commanding officer that the private has such ammunition in his possession?—A. Yes. It is possible, in spite of all possible checks. Only yesterday afternoon there was on trial at Fort Sam Houston the case of a man in my own company who had a certain amount of ammunition unauthorizedly in his possession, and had fired the same at night, and in my company I take more than ordinary precaution in requiring men to turn in the ammunition immediately after inspection, and to issue it to them immediately before inspection—a precaution not generally taken. With the target season shooting, with an allowance of 400 rounds of ammunition per man per year, and the winter season shooting, and the subsequent season shooting, and the post competitions, there is a splendid opportunity for men who desire to steal ammunition to do so. It is customary in many companies to permit the men to retain at all times the 10 rounds of ammunition required to be in their possession at inspection. At the camp of instruction at Mount Gretna, Pa., last summer, the Second Squadron of the Thirteenth Cavalry was there encamped, and its commanding officer, finding some unauthorized ammunition among the men, made a search and found considerably over 1,000 rounds of ammunition concealed in the camp of the squadron; and it is so common for men to have unauthorized ammunition that it is an ordinary precaution that before a maneuver the men are specially searched and inspected to see that they have no ball ammunition with them.

Q. In conclusion, Captain Ely, I will ask you to examine these three clips [hands them to Captain Ely] which, it is shown by the testimony of various witnesses, were picked up in the streets of the city of Brownsville on the morning of the 14th of August, 1906, and turned over to me by the mayor of Brownsville and the sheriff of Cameron County, and to state whether in your opinion they are similar to those which are used in the new Springfield rifle.—A. I have carefully examined the clips, and can confidently state that they were made for the new Springfield rifle, and are exactly the same as those issued to the troops for their use. These clips are of a peculiar pattern, and I am confident that there is no other rifle, unless it be some military rifle of Europe, that uses a clip anything like these, and I am fully convinced that the clip is peculiar to the Springfield rifle, and that there is no other like it.

HANSON E. ELY,
Captain, Twenty-sixth Infantry, United States Army.

THE STATE OF TEXAS, *County of Bexar:*

Hanson E. Ely, being first duly sworn, deposes and says that he has read the foregoing testimony subscribed by him, and that the same is true of his own knowledge, except as to those matters therein stated upon information and belief, and that as to those matters he believes them to be true.

HANSON E. ELY,
Captain, Twenty-sixth Infantry.

Subscribed and sworn to before me this 6th day of January, 1907.

[SEAL.]

D. H. HART,
Clerk United States Court for the Western District of Texas.

By A. I. CAMPBELL,
Deputy.

By Senator FORAKER:

Q. Captain, you testified also before the court-martial did you?—
A. Yes, sir.

Q. But your testimony before the court-martial was only in substance and effect what you gave before Mr. Purdy?—A. Yes, sir; practically the same.

Q. There is no statement that you made before the court-martial that you want to recall or modify in any way, is there, in any way that you know of, after reading your testimony over—if you have read it? I only ask this so that I may not have to go to the trouble of cross-examining you on points that you were cross-examined on then.—A. Yes, sir.

Q. If there is any statement that you want to change, that you think of, we will be glad to have you call our attention to it.—A. I do not know that there is.

By Senator WARNER:

Q. Have you read your testimony taken before the court-martial?—A. Yes, sir; I read that recently. A good deal of that testimony was only an opinion. As regards the facts, there is nothing that I want to change, and I do not remember of any of the opinions that I would change.

By Senator FORAKER:

Q. Then, I will not bother about that, but confine myself to questions I want to ask you about the testimony given before Mr. Purdy.—A. Yes, sir.

Q. With such other questions outside as I may care to ask you. I understand you to say that the Krag rifle, which the Army used before the Springfield new model of 1903 was put into use, had four lands, just the same as the Springfield?—A. Practically the same; yes, sir.

Q. It had the same character of lands?—A. Yes, sir; the same twist and the same groove.

Q. And the marks on the bullets would be the same?—A. Yes, sir.

Q. I understood you to say there were two differences between the Krag and the Springfield bullet. One was the difference in the nose of the bullets, one being a little more pointed than the other—the Springfield, I understood you to say—and the second difference being that the Krag bullet was cannelured and the Springfield was not cannelured?—A. Yes, sir.

Q. Is it not true, Captain, that the Krag bullets were for a time made without any cannelure, and only for a short time made with a cannelure, so that there are Krag bullets both with and without the cannelure?—A. To the best of my recollection, the first Krag bullets had not the cannelure.

Q. Yes.—A. And they found that they pulled out, and they made the cannelure to rectify that; so that the earlier ones, in my opinion, did not have the cannelure.

Q. No; for a number of years. There is no doubt about that, is there?—A. No, sir.

Q. For a number of years the Krag bullet did not have the cannelure?—A. Yes, sir.

Q. And the Krag bullet, when you find it to-day, may have a cannelure or may not, according as it was made one way or the

other?—A. No, sir; the old one would not have it. Those issued last would have it.

Q. You were shown three bullets when you testified before Mr. Purdy?—A. Yes, sir.

Q. And you testified that they were all Springfield rifle bullets?—A. Yes, sir; that is my opinion.

Q. That was your opinion?—A. Yes, sir.

Q. Since then we have been favored with a report made by the experts at the arsenal, upon those bullets, made after a careful examination by them, and the conclusions found at page 2269 of our hearings are set forth as follows:

XV. In conclusion, it may be stated: (a) That the three bullets referred to in Paragraphs IV, V, and VI above are beyond a reasonable doubt from United States ammunition, model of 1898 or model of 1903.

(b) That these three bullets were not fired from Mauser 7.65 mm. rifles or from Mauser 7 mm. rifles.

(c) That these three bullets were fired from either the United States model of 1898 rifle or from the United States model of 1903 rifle.

Do you agree with those conclusions?—A. (After examination of report.) Yes, sir; I think those conclusions are absolutely safe. But if I was going to judge as to the probability, between the two, from the nose of the bullet, I would say—but perhaps I am going a little too far, further than you want me to go.

Senator FOSTER. No; go on.

A. (Continuing.) If I was going to judge which of the two was the more probable, I would say more probably the new Springfield, from what seems to me to be the more pointed nose of the bullets.

Q. Those three bullets when shown to you seemed to be Springfield bullets?—A. Yes, sir.

Q. And they were all the same size and all the same general appearance except as they were disfigured by meeting with obstructions?—A. Yes, sir.

Q. And they seemed to you to have a more pointed nose than the Krag bullets?—A. They seemed to, although I would not say that it was impossible that they should be Krags.

Q. Now, Captain, is there any difference whatever in the actual form and figure of the two bullets?—A. I believe so; yes, sir.

Q. You think there is?—A. Yes, sir; I have taken them and compared them. I have taken the cartridges and compared the two, and it seems to me that there is quite a little difference.

Q. Is that plainly perceptible?—A. No, sir; it is not plainly perceptible.

Q. It requires very close scrutiny when the bullets are in the cartridges, before they have been fired?—A. Yes, sir.

Q. To detect any difference between them?—A. Yes, sir; it does.

Q. And is it not next to impossible to detect any difference there may be after they have been fired, if they had gone through any obstruction?—A. Well, I would hardly say next to impossible, but it is difficult.

Q. Of the two bullets here which I show you, can you tell which is which? One is a Krag and the other is a Springfield.—A. I should say this was the Springfield.

Q. See if it is.—A. No, sir; it is not.

Q. That is the Krag, isn't it?—A. Yes, sir.

Q. That shows that you may be mistaken about it, doesn't it, as to the appearance?—A. Yes, sir.

Q. Now, I want to show you the three bullets that you testified were undoubtedly fired from the Springfield new model of 1903. I have them here. We will have to take them out and be careful not to get them mixed. You made a very careful examination of those, didn't you?—A. Yes, sir.

Q. Lives and deaths were depending upon the results of the investigation, as well as honor and discipline and some other things?

Senator WARNER. Is that a question. Senator Foraker?

Senator FORAKER. I ask him if that was not so.

Senator WARNER. Life and death?

Senator FORAKER. Life and death; yes—the responsibility for life and death.

Senator WARNER. Oh, the responsibility.

Senator FORAKER. Well, I only wanted to call attention to the serious character of the investigation. [To the witness:] Now, these have passed through obstructions, have they not?—A. Yes, sir; evidently.

Q. And they are more or less battered up at the nose, as well as at the other end of the bullet, are they not?—A. The nose of this one does not seem to be.

Q. Well, not very much; but it is somewhat. Now, that is a bullet that is supposed to have been taken from the Cowen house. Look at all three of those bullets carefully now. Those are supposed to be the same bullets you examined before. Do you think they are Springfield bullets of the 1903 model?—A. The nose of that one is deformed so much—you see it is blunted there—that I don't think you could tell by that.

Q. First, let me ask you, is it not true, as said in that report from which I read you a moment ago, that, disconnecting these bullets with everything else now and for the moment looking only at the bullets, they may have been fired either from a Krag or a Springfield rifle, may they not?—A. Yes, sir. I would not undertake to say that they had been fired from a Springfield in contradistinction to a Krag.

Q. They might have been fired from a Krag?—A. Yes, sir.

Q. That is to say, they have the same number of lands on them?—A. Yes, sir.

Q. And the lands, so far as you can judge, are the same in size, are they not?—A. Yes, sir.

Q. And the grooves are apparently the same width as the grooves in the other rifle?—A. Yes, sir.

Q. And, as a matter of fact, the grooves and lands in the Springfield and the Krag are precisely the same, are they not?—A. Practically the same.

Q. So that the marks on the bullets would be the same?—A. Yes, sir.

Q. Do you think those bullets are all the same kind? Look at them carefully.—A. Oh, yes; I think they are all of the same kind of bullet.

Q. You think they are absolutely the same. I call your attention to the one marked "No. 9." Do you think that is a Springfield, and the same kind of a bullet that these other two bullets are? I will

ask you if it is not a smaller bullet?—A. That has somewhat more of a point, it seems to me, than this. Now, that point is practically unbroken, and this point is a little broken.

Q. This point on No. 7?—A. Yes, sir. Well, this point of No. 9 has been battered somewhat, and it appears to me that the diameter of that point from the top down to here [indicating] is smaller than this.

Q. I will ask you to look at the bullet generally and see if that is not a smaller bullet, if it is not perceptible to the eye that it is a smaller bullet than either of the others? Do not get them mixed, now.—A. This bullet is so deformed—it is flattened.

Senator WARNER. "This bullet" is number what?

Senator FORAKER. No. 9.

A. No. 9 is so flattened, and at the same time twisted, that it is very difficult to make a comparison.

Q. It is all there, isn't it?—A. Yes, sir; it is all there.

Q. Nothing missing from it?—A. No, sir.

Q. Do not get them mixed. I think I would know them, for I have studied them pretty carefully, but I do not want to have any dispute with anybody about it.—A. No. 9 is so flattened and twisted that it is hard to make a comparison. If you look at it that way [indicating], it seems a smaller caliber.

Q. As you then had it, you got the caliber, didn't you?—A. When held that way [indicating] it seems a smaller caliber, but here it is flatter, and if this flattened part were pushed back, I should think it would make it about the same caliber as this other.

Q. Put it down there and I will ask you some questions. The bullets might as well be put away. You do not care to see them further?—A. No, sir; I think not.

Q. What is the equivalent in millimeters of a No. .30 caliber?—A. I think I will have to figure that out. The Mauser has practically the same caliber as our rifle.

Q. There are different sizes of Mauser rifle, are there not? For instance, is there not the 7-millimeter Mauser rifle?—A. It seems to me it is 7.5 millimeters. I am not sure; I am not positive about that.

Q. There is a 7-millimeter Mauser rifle, as I understand, and a 7.62-millimeter, and a 7.65-millimeter. Now, what is the difference, if you can tell, in the sizes of those bores, if that has reference to the bore, as I understand it has?—A. Yes, sir.

Q. What is the difference in the caliber of the bullet that would be fired out of those guns, expressed in our own measurements?—A. The difference between a 7 and a 7.65 would be practically the difference between our .32 and our .30, quite a little difference.

Q. Is not the caliber of the 7-millimeter gun, expressed in our measurements, 27.6?—A. Yes, sir; I should judge it would be.

Q. Just about?—A. Yes, sir; just about.

Q. And 7.62 would be the exact equivalent, would it not, of our .30?—A. Yes, sir.

Q. And 7.65 would be a little bit larger?—A. Yes, sir. The 7.62 and the 7.65 could be fired from the same rifle.

Q. They are practically the same; that is to say, the difference would be so light that it is scarcely perceptible?—A. Yes, sir.

Q. Now, the 7-millimeter and the 7.62-millimeter and the 7.65-millimeter guns all have four lands, have they not?—A. Yes, sir.

Q. Precisely the same as our gun in that respect?—A. Yes, sir.

Q. The twist is a little bit sharper, is it not?—A. I think they have 8 inches to our 10.

Q. 8.65, is it not, to be accurate?—A. Yes, sir.

Q. As against 10?—A. Yes, sir.

Q. Now, the rotary motion would be very nearly the same for the one, would it not, that it would be for the other?—A. Yes, sir; slightly greater for the Mauser.

Q. The difference is extremely slight?—A. Very slight.

Q. Do you know the weight of our bullet?—A. I think it is 442—

Q. I am speaking of the bullet itself.—A. I am not sure. I think it is 224 grains or 242.

Q. Two hundred and twenty grains, isn't it?—A. Yes, sir; something like that.

Q. You have been handling these bullets for ten years, haven't you?—A. Yes, sir; more than that.

Q. Do you now recall, since I suggest it, that it is 220 grains?—A. I had an idea that it was 240. I think there is a 4 in there somewhere, but I am not sure. I never did pay much attention to it.

Q. I have before me the official publication of the War Department in which it is given as 220 grains. That is correct, no doubt?—

A. Yes, sir.

Q. The Krag bullet has precisely the same weight, has it not?—A. I think so.

Q. Do you or not know that they are both made from the very same mold, and have been all the time?—A. No, sir; I do not know that.

Q. You do not know that. They may be or may not, so far as you are aware?—A. No, sir; I know that the Ordnance Department have been experimenting with a sharper-nosed bullet, because it gives a flatter trajectory and greater velocity.

Q. And yet, if there is any difference, it is so imperceptible that you can not detect it, or at least could not in the two bullets I showed you a while ago?—A. No, sir; not for this particular Krag and Springfield, I could not tell. It seemed in this case that the Krag was sharper than the other, if anything.

Q. Now, can you tell us what a bullet fired out of a 7-millimeter gun, a bullet of that particular caliber, ought to weigh—just the bullet itself?—A. Well, taken in proportion, I should say it would weigh about 190 or 200 grains.

Q. What if it were shot out of a 7.62-millimeter gun?—A. Well, then, I should say, being the same length and everything, it ought to weigh about 220 grains, practically what our bullet weighs.

Q. I call your attention to the fact that by this official report that has been published in our proceedings, commencing at 2265, it is shown that this bullet, which you seemed to think, after close examination, was lighter than the other two, weighs only 200.3 grains. Now, knowing that that bullet, which you say is all there, apparently weighs only 200.3 grains, while the regular Springfield bullet weighs 220 grains, would you not conclude that that was something other than a Springfield bullet?—A. Well, I should like to look at that bullet again.

Q. We will show it to you again. I do not want to take it away from you. At page 2266, in the third table on that page, the weigh'

of this bullet is given. I understand it to be this bullet. It is described as bullet marked "X" on side near base and with a crude P on side of ogive, contained in an envelope marked "steel-jacketed bullet received in evidence in connection with the affidavit of Maj. A. P. Blockson."

By Senator FRAZIER:

Q. Do you find that marked "X" on the side near the base, and with a crude P?—A. Yes, sir. This is marked "X."

Q. You recognize it, don't you?—A. I recognize the mark "X." It is No. 9.

Q. And with a crude P on the side of the ogive. What is the ogive?—A. The head.

Q. Is there a crude P there?—A. Yes, sir.

Q. So now we have identified the bullet, and this report shows that, according to the weighing of that bullet by the experts, it weighed only 200.3 grains?—A. I think that can be accounted for by this: The butt or base of the bullet, you see, is broken, and there is some sort of foreign substance in there, and the lead is evidently broken. I think probably some of the lead of that is gone out.

Q. You think that would make the difference?—A. Twenty grains, I think it could very readily. It would be only one-tenth.

Q. Still, it appeared to you a while ago, before you knew what the weight actually was, to be a smaller bullet in caliber?—A. No; I do not think so.

Q. Didn't you say that as you held it in a particular way—A. That it looked smaller that way, but if pressed back to a round shape it would probably be the same size as the other. I think you will find that in my evidence.

Q. You think the difference in weight between what it ought to be, 220 grains, if a Springfield, and the weight it actually has, is to be accounted for by the condition of the bullet at the base?—A. The condition at the base—apparently it has struck something, and some of the lead may have gone out.

Q. You think it may have. Do you think any has gone out?—A. No; I can not say. It is broken in there and irregular.

Q. About how much, do you think, would be gone out—as much as 20 grains?—A. Twenty grains; that would be one-tenth of the whole.

Q. Do you think one-tenth of that whole bullet is gone?—A. In order to judge of that, I should like to have a whole one for a comparison.

Senator WARNER. It would be one-eleventh, to be exact.

By Senator FORAKER:

Q. You could not give us anything but your opinion?—A. That is all. Of course anyone can look at that.

Senator FORAKER. Here is a perfect cartridge.

The WITNESS. I might pull this bullet out.

Senator WARNER. Do not pull it out here.

Senator FRAZIER. May I interrupt to ask a question here?

Senator FORAKER. Certainly.

By Senator FRAZIER:

Q. Captain, in examining the base or butt of that bullet, does it or not appear that one side is higher than the other, indicating that a

portion had been broken off of one side there?—A. There has undoubtedly some of it been broken off.

By Senator FORAKER:

Q. You think it is shorter than it should be, then?—A. I think it is slightly shorter. It is turned over.

Q. It is not a tenth shorter, is it?—A. It hardly looks so to me.

Q. I call your attention to the fact that by these same experts the length of that bullet is shown to be 1.255 to 1.265, which is precisely the length that is given for the regulation bullet.—A. Yes, sir.

Q. Now, do you discover any difference?

Senator LODGE. That is its extreme length?

Senator FORAKER. Yes.

Senator FRAZIER. As I read this table, the length of the bullet which he has in his hand is given as 1.262.

Senator FORAKER. Yes; I will give it to him in a minute.

The WITNESS. It seems to me, as to the length, the metal is turned over the base in the bullet. Now, that turnover is broken off here, and here is a little piece which seems to be left, which projects up here slightly. The lead does not go back to that. There is a little lead left out of that.

Q. The point I want to call to your attention is the fact that the length should be from 1.255 to 1.265, while the actual length of this bullet is given as 1.262. That is to say, it is seven one-thousandths of an inch longer than the minimum length should be.

Senator WARNER. That is, in the present condition?

Senator FORAKER. In its present condition.

Senator FRAZIER. And shorter than the maximum length?

Senator FORAKER. It is longer than the first one, 1.268, while the other is 1.235.

The WITNESS. That, I think, is to be accounted for by this: You will see there the elbow where the jacket is bent over the base of the bullet. The part of the jacket that is bent over in this case has been raised, which would increase the length in this little place, the only place you can see it. It seems to me that as the elbow and that as this piece which ordinarily is over the butt has become raised up partly by this breakage at the base, that, it seems to me, would give the additional length. If this were bent in that way [illustrating] and they would take the measurement of this elbow, probably it would be about the same.

Q. Now, as a matter of fact, Captain, is it not of greater length than the second of the descriptions given here?—A. Yes, sir; according to that it must be.

Q. That would be No. 8?—A. But that length is measured on a portion that is not ordinarily in the length—the lateral portion that is turned up.

By Senator FOSTER:

Q. That measurement, as I understand, shows that this bullet is longer than the minimum and shorter than the maximum?

Senator FORAKER. Yes; that is what it shows, and it shows also that it is longer than the second one described, which is 1.235, and it is not quite as long as the first one.

Senator LODGE. Is No. 8 the short one?

Senator FORAKER. No. 8 is the shortest of the three, 1.235. [To

the witness.] How much in length would a thousandth of an inch be? Can you give us any idea?—A. It would be almost imperceptible.

Q. Five or six thousandths would be barely perceptible, would it not?—A. Yes, sir. Five one-thousandths, or one two-hundredth of an inch, is the slightest you can give on paper.

Q. If this bullet only weighs 200.3 grains, and it ought to weigh 220 grains, there is one-tenth of it in weight gone.

Senator WARNER. One-eleventh.

By Senator FORAKER:

Q. Well, one-eleventh—I did not stop to count it.—A. Yes, sir.

Q. Now, that being the case, do you miss as much as one-eleventh of the bullet? Have you any idea that there is that much of it gone?—A. No, sir; not in length, but the bullet has been pressed laterally, and that lead might be pressed out, as you press putty out of a tube—the way it is broken there.

Q. Now, Captain, passing that—we have your opinion on it—you were asked whether or not one of these bullets passing through an obstruction might be stripped entirely of the steel jacket and the lead part of the bullet go on and bury itself in some object?—A. Yes, sir.

Q. Do you think that is possible?—A. Yes, sir.

Q. Do you think passing through a pane of window glass would have that effect?—A. No, sir.

Q. You are clearly of that opinion, are you not?—A. Not an ordinary pane of glass. I do not think that would break it at all.

Q. What kind of an obstruction do you think would strip off the steel jacket entirely?—A. Well, shooting into sand or gravel, or anything like that, practically always does, very often does; or if it went through a door casing where there were nails in it and it struck a nail, that would very likely do it.

Q. That might tear it and take it off?—A. That might tear it, and the nail starting it, the projecting pieces would catch and the wood would do the rest—might do the rest.

Q. We can understand how the jacket might be torn off, but would the lead that is inside the bullet go on, as though a bullet by itself?—A. Yes, sir; because the lead is the heavier part; the jacket as it turns forms a resistance more than the lead.

Q. How much lead is there in this bullet?—A. Well, I am not quite prepared to say, I should judge 200 grains.

Q. Is there anything in that bullet except only a filling of lead?—A. Well, you might say it is all lead. The filling is practically all of it, except that very thin outer casing. That thin outer casing is not as thick as this steel pen. It is not any thicker than ordinary thin tin.

By Senator WARNER:

Q. That is what we are pleased to call the steel jacket?—A. Yes, sir; the steel jacket. It is very thin.

By Senator FORAKER:

Q. Suppose a high-power rifle were to be fired in the rear part of a house towards the front of it, and without striking any obstruction until it reached the window in front, it should there pass through the windowpane, and go out onto the street, across the street, and embed itself in a post on the opposite side. Would you expect to find only

the lead part of the bullet, with the steel jacket stripped off?—A. No, sir; I would not think it would strip at all.

Q. You would expect to find the bullet practically intact, would you not?—A. Yes, sir.

By Senator FRAZIER:

Q. Would you expect to find the bullet there at all, if it had only passed through a windowpane and struck a post on the other side. Would it not go through?—A. One of those jacketed bullets would go through about 16 inches of hard wood and about 40 inches of soft wood.

Q. If it had only gone through a pane of glass and the post, it would not be found in the post at all?—A. Not unless it was a very thick post.

Q. A post 4 by 6?—A. It would go right through that.

By Senator FORAKER:

Q. And if you had found it embedded in that kind of a post, after it had been fired at such a short range, and had passed through nothing until it reached the post, except a pane of window glass, you would not expect that to be a high-power bullet, would you?—A. No, sir.

Q. That of itself would warn you that it was not a high-power bullet?—A. Yes, sir.

Q. And then if you had cut it out and found that it had no steel jacket on it, but only lead, you would think it had been fired out of some other gun, would you not?—A. Yes, sir.

Q. You would think so, because it ought to have a greater penetration in the first place, would it not, if it were a high-power bullet?—A. Yes, sir.

Q. And in the second place, because there was no steel jacket on it?—A. Yes, sir.

Q. And there was nothing that it had met with in its flight to strip off its steel jacket?—A. Unless it was a soft-nosed high-power bullet.

Q. A soft-nosed high-power bullet?—A. The jacket would probably be there then anyway.

Q. The soldiers do not have soft-nosed bullets?—A. No, sir; the soft-nosed bullets mushroom.

Q. The soldiers do not have those?—A. No, sir.

Q. They are used in sporting?—A. Yes, sir.

Q. And they are used because they are more effective in killing game, are they not?—A. Yes, sir.

Q. That is, they spread when they strike?—A. Yes, sir.

Q. You are familiar, are you, with the flight of bullets?—A. Fairly so; yes, sir.

Q. You have made experiments, I suppose?—A. Yes, sir.

Q. When one of these high-power bullets is fired out of one of these high-power rifles, what is the condition of the bullet in its flight for the first four or five hundred yards? Is it steady, or is there—A. Steady.

Q. Perfectly steady?—A. It is rotary, but it is not tumbling.

Q. It is rotary, is it not?—A. It is rotary, but it does not wobble at all.

Q. If it strikes something it may be easily deflected during that

time, may it not?—A. Well, not so easily as it is a little later, but if it strikes any hard substance, especially at a considerable angle, it deflects.

Q. It is true, is it not, that when one of these bullets strikes any kind of a substance it can be deflected by it?—A. Well, it would have to be a considerable resistance, of course.

Q. We will say at a distance of 100 feet.—A. Considerable resistance on the part of this substance which was struck. Ordinary straight-grained pine 3 or 4 inches thick would probably not—

Q. Is there not some movement—

Senator LODGE. You did not finish that last answer.

A. Ordinary straight-grained pine 3 or 4 inches thick would not deflect one of these bullets.

Q. You mean if it went through?—A. If it went through.

By Senator FORAKER:

Q. If it struck it perpendicularly, at right angles?—A. Yes, sir.

Q. If it struck it at a slant, it might, might it not?—A. Well, if it hit the grain in a certain way, or hit a knot, it might; but if the grain was straight, and it struck it at an angle of 45° , I should say generally it would go right through.

Q. Go right through, then, even if it struck it at an angle?—A. Yes, sir.

Q. Have you ever made experiments to that effect?—A. Never made experiments, but I have seen a great many timbers that have been shot through by bullets.

Q. Did you ever make an examination with a view to determining whether or not there was deflection?—A. Not with that view; no, sir. I have known several cases where there was deflection, causing accidents, the bullets striking down into the pit.

Q. Now, Captain, are you familiar with the testimony in regard to some experiments that were made by officers of the Twenty-fifth Infantry, and testified to before the Penrose court-martial?—A. No, sir; I am not.

Q. You are not familiar?—A. No, sir; I did not read that.

Q. I think it was in testimony there—I mention this simply to call it to your mind—that some boxes were put up and fired into, and practically every bullet, although going through soft pine boxes, was deflected by the first box it entered, so that it would go to the right or left, or up or down, as the case might be, and in no case did it go straight through in the way you indicate. Have you made such experiments as would justify you in contradicting that kind of testimony?—A. Well, in those boxes the sides were a considerable distance apart. The bullet went through one and then another and then another, as I understand.

Q. They took boxes and fixed up pine-boards that they made out of the boxes, I believe.

Senator LODGE. May I ask who made the experiments?

By Senator FORAKER:

Q. The experiments were made by officers of the Twenty-fifth Regiment and testified to before this committee and also before the Penrose court-martial.—A. No, sir; I made no experiment at all. My observations have simply been on the range where bullets have gone through target material and such things.

Q. You have made no observations and you have made no special examination?—A. I have observed two or three times where they have been deflected by knots.

Q. Two or three times, but you have never made such experiments or such observations as those I speak of?—A. No, sir.

Q. As having been made by these officers?—A. No, sir.

Q. If they have made such experiments and have so testified, you would not want to contradict them, would you?—A. No, sir; they are undoubtedly true.

By Senator FOSTER:

Q. You do not know the conditions under which those experiments were made, do you?—A. No, sir; I do not. I knew there were some made, but I did not read over the testimony.

By Senator FRAZIER:

Q. Would the liability to deflection increase as the distance of the bullet increased from the point of firing?—A. Yes, sir.

Q. And if it struck the substance, therefore, within 75 or 100 feet of the point from which it was fired, it would be very much less likely to be deflected than it would if it was 500 or 1,000 feet away?—A. Yes, sir; much less.

By Senator FORAKER:

Q. Now, Captain, do you understand that in the first four or five hundred feet in the flight of a bullet it goes more steadily than it does afterward?—A. Well, it goes steadier than it does after it gets to, say, 1,000 yards. Then it has a tendency—the rotation has been overcome, and it has a tendency to wobble.

Q. Is it not true that these high-power bullets, at a short range of, say 100 feet up to 400 yards, make much worse wounds than they do beyond that range?—A. Yes, sir.

Q. At close range they tear, do they not?—A. Yes, sir.

Q. They have what is called the explosive quality?—A. Yes, sir.

Q. For instance, when one of these bullets enters a human being at close range—one of these high-power bullets—it tears and lacerates and makes an ugly wound, does it not?—A. Yes, sir; especially if there is any liquid there.

Q. Any liquid?—A. Yes, sir.

Q. That is, the bullet, going through the soft parts of the body—the bowels, for instance—would have that effect, would it not?—A. Yes, sir. Going through the head, it would explode the head.

Q. Going into the head at short range, it tears the head all to pieces, does it not?—A. Yes, sir.

Q. You know that from your own personal knowledge and observation?—A. Yes, sir; I have seen such cases.

Q. From observation, can you tell us of some cases of that kind?—A. There was a case of a man, an escaping prisoner, shot at Fort Sheridan. I think that was before the war; I think it was about 1897. Shot with a Krag bullet.

Q. Before the Spanish war?—A. Yes, sir. He was shot in the head and practically all of his head was torn off.

Q. How far was he from the rifle?—A. I believe 30 to 60 yards.

Q. And it tore his head all off?—A. Yes, sir.

Q. That was at Fort Sheridan, near Chicago?—A. Yes, sir.

Q. Did you personally observe that?—A. I did not see the man, but I read the account of the officers who examined him.

Q. Can you give us any other instances of like character—similar to that in a general way?—A. Well, I have seen some cases in the Philippines, with the insurgents, when we picked them up. We could not tell at what range they were shot, except that they were all shot within 300 or 400 yards, and there were several wounds of that nature

Q. Ragged wounds?—A. They were broken; yes, sir.

Q. Badly torn?—A. Yes, sir.

Q. And that was attributed to the fact, was it not, that they were struck at short range?—A. Yes, sir.

Q. Within 400 yards?—A. The doctors say it is due to the great rotation of the bullet. They say that it churns it right up.

Q. Is it not true that you are taught by these official regulations and instructions issued by the War Department that the "humane zone," as it is called, is beyond 400 and 500 yards?—A. Yes, sir; I think it is from 400 to 1,000 yards, something like that.

Q. That is, until it gets to a distance of 400 or 500 yards away, it tears and lacerates?—A. Yes, sir.

Q. Makes ugly wounds?—A. Yes, sir.

Q. And after it goes 400 or 500 yards, up to 1,000 yards, it makes a clean-cut wound?—A. A clean hole. Then after that, when it wobbles, it splinters.

Q. After that it splinters, when it loses its velocity and loses its effectiveness?—A. Yes, sir.

Q. So, if you were to see a man dead from a gunshot wound, the projectile having entered him through the soft parts of the body, entered at one side, and gone through the soft part and come out at the other side with a clean-cut wound, without any blood or laceration, just a small wound, the two wounds so much alike that it would be difficult to tell which was the entrance and which was the exit, what would you conclude?—A. Well, unless his interior was pretty well churned up I would conclude it was a long-range shot; but if his interior were churned up, although the bullet might have come out with a small wound, then it might have been a short-range shot.

Q. Suppose you did not know anything about his interior at all?—A. I would jump at the conclusion that it was a long-range shot probably.

Q. You would conclude that it was, if it was high power, would you not?—A. Yes, sir.

Q. You would not expect that kind of a wound to be made, judging from your experience and observation, by a high-power projectile at close range?—A. Well, the close range does not affect the fleshy parts the way it does the head or some part where there is an inclosed liquid. That is what makes the explosion. I do not think it would make a big tear on coming out.

Q. Is there any liquid in the head?—A. Well, the brain is mushy. It is practically liquid.

Q. Is not the whole interior of a man in the nature of liquid, or mushy, or soft tissue?—A. Yes, sir; but there is so much play that I think it would make a clean exit.

Q. But you would not expect a high-power projectile at close range, say 30 or 40 feet, to make that kind of a wound, would you,

judging from your experience?—A. Well, I would expect the exit wound to be larger.

By Senator FOSTER:

Q. Captain, this tearing process of the bullet is attributable to the lateral explosive force of the bullet?—A. Yes, sir. That is why the exit wound might be small. If there is enough lateral space for expansion of the liquid that it strikes, as there might be in the body, then I think the exit wound might be small.

Q. But the point of entrance would not be subject to this lateral force, and it would make a small wound?—A. That would always be small; yes, sir.

Q. Always small, and no evidence of tearing at the point of entrance, but the tearing process would take place after it got into the body, particularly in this soft substance?—A. Yes, sir; and if the soft substance had room to give, then it might not make a large tearing exit wound; but in the case of the head, where it is inclosed, there is the explosive effect.

By Senator FORAKER:

Q. Captain, you are not a surgeon?—A. I am not an expert on the subject.

Q. You do not pretend to be an expert?—A. No, sir.

Q. You are simply talking from your observation?—A. From my observation.

Q. According to your observation, every wound you have ever seen at close range from a high-power projectile has had that tearing effect?—A. Well, only in the head, Senator.

Q. Every one you have ever seen?—A. No, sir. I saw the bodies of men killed in the Philippines.

Q. Didn't you tell us, also, that they were mangled more or less?—A. No, sir.

Q. Did you say they were not?—A. I was simply referring to wounds in a place where there was a confined liquid; for instance, the head. I spoke of those. I intended to refer only to those cases where they were shot through the head.

Q. Where were the other wounds inflicted, on what part of the body?—A. Well, practically all parts of the body. I saw a great many of them.

Q. At what range were those wounds inflicted?—A. Well, it was often difficult to tell. It was all within less than 800 yards.

Q. Less than 800 yards?—A. Yes, sir; and some of them 100 yards; from 100 to 800 yards, probably.

Q. Can you tell us what would be the character of any wound at 100 yards?—A. I could not tell by looking at the man whether he was wounded at 800 or 100 yards. I only know that these men whose bodies I saw were shot at ranges varying from 100 to 800 yards. After they were shot the men gathered them in.

By the CHAIRMAN:

Q. Did you see the party who was killed at Fort Sheridan?—A. No, sir; I only read the report of the officers who investigated that. There was a man killed at Jefferson Barracks the other day. I was there a couple of days ago, and I asked about it, but no one whom I talked to had examined that wound.

By Senator FORAKER:

Q. Did you ask about it with respect to examining the wound in that regard?—A. I asked about it to know the effect. I was curious to know whether or not there was a large exit wound, and I asked some of the officers, but none of them had examined.

Q. What caused you, only a few days ago, to be thinking of that and investigating it? Were you doing it with reference to this examination?—A. No, sir; I had no idea what I came up here for. I was just inquisitive. It was a matter I wanted to know about. The doctor down there could give that if he were called upon—the surgeon at Jefferson Barracks could give information on that point personally.

By Senator FRAZIER:

Q. Where was the man shot?—A. Through the body—through the lungs.

By Senator FORAKER:

Q. So far as the lands on these bullets are concerned, they might have been fired out of a Krag, or out of a 7-millimeter or a 7.62-millimeter or a 7.65-millimeter Mauser, or a Springfield, might they not?—A. Yes, sir; as far as the lands are concerned.

By Senator LODGE:

Q. As far as the number of lands is concerned?—A. As far as the number of the lands.

Q. How as to the length of the lands?—A. The twist in the Mauser is a little greater. That could be determined by accurate measurement, but not by the eye.

Q. There would be a difference in the length of the lands on the Mauser, as compared with the Springfield, or the Krag?—A. Yes, sir; that is, the twist would be greater.

By Senator FORAKER:

Q. There would not be any difference in the length of the mark on the bullet?—A. No, sir.

By Senator LODGE:

Q. That is what I meant: the length of the mark on the bullet.—A. Not in the length.

Senator LODGE. We have the photograph, and it shows a longer mark on one than on the other. That is why I ask, owing to the fact that the Mauser pinches the bullet a little quicker.

A. If the bullet was a little more pointed, it would take less length of groove. The blunter the bullet the longer would be the groove, because it would take the groove higher up.

Senator LODGE. That is what I mean, that the Mauser was shorter.

By Senator FORAKER:

Q. The difference is that the twist in the Mauser is a little sharper than it is in ours?—A. Yes, sir; about 20 per cent.

By Senator LODGE:

Q. It catches the bullet higher up, does it not?—A. I am not sure that the Mauser is a sharper bullet. If the Mauser bullet is sharper, it would catch the bullet lower down. The sharper the bullet the lower down it would catch and the shorter would be the groove.

By Senator FOSTER:

Q. Captain, the shell that was shown you at the Purdy examination could not have been used in the Mauser, could it?—A. No, sir; that could not have been used with the Mauser, nor the clips.

Q. Nor the clips?—A. Nor the clips. The clips are unique. There is no other gun that takes that clip.

By Senator LODGE:

Q. The clips are unique?—A. Yes, sir; there is no other gun within my knowledge or reading that takes that clip.

By Senator FORAKER:

Q. The photograph which is printed here shows two Springfield bullets, one fired out of a Mauser and the other out of a Springfield rifle. The left one is the Springfield bullet fired out of a Mauser, and the one on the right is a Springfield bullet fired out of a Springfield rifle.—A. Then I would say the land of the Springfield was very slightly higher than the Mauser, because it would catch it higher up.

Q. That indicates, does it not, that the bore is a little bit smaller in the Springfield than it is in the Mauser?—A. Well, taking the bore to the depth of the groove, yes.

Q. You stated to me a while ago, did you not, that 7.62 millimeters was the equivalent of our .30?—A. I said as nearly as you can get.

Q. 7.65 would be just a little bit larger?—A. Yes, sir.

Q. Would not that account for the fact that the land mark is not quite so long on the Springfield bullet fired out of the Mauser—that is, the larger the caliber the more likely it would be to make no mark, wouldn't it?—A. Yes, sir. As a rifle is shot a great deal the lands wear down, and this land is more prominent than that one.

Q. Because the .30 caliber is a little bit smaller than the 7.65 caliber, isn't it?—A. That would account for it; yes, sir.

Q. Then do not the lands wear down as you fire a rifle?—A. As the lands wear down they would catch the bullet a little lower down.

Q. To what extent, according to your experience, do these lands wear down with firing? That is, what would be the effect on the lands of firing a hundred shots out of a Krag or Springfield?—A. Well, with a Krag 100 shots would make very little difference, but after you have fired two or three thousand shots it begins to make quite a difference.

Q. Then they wear down pretty sharply after that?—A. They wear down to such an extent that it makes a gun inaccurate for the 1,000-yard range.

Q. To what extent do they wear down in 400 or 500 shots? Is there not a perceptible abrasion or wearing down?—A. Well, hardly perceptible; no, sir.

Q. Have you ever paid any particular attention to that?—A. Yes, sir; because I had a gun wear out on me at competition once, one that I had fired about 3,000 shots out of, so much that I had to continually take more elevation. That was due to the projectile fitting loosely, the lands wearing down.

By Senator WARNER:

Q. That was after 3,000 shots?—A. I had fired nearly 3,000 shots out of that gun.

By Senator FORAKER:

Q. Is it or not easy to trace a bullet from the mark it makes in passing through an obstruction to the point or locality from which it was fired?—A. If the obstruction is of such a nature as not to deflect it; yes, sir.

Q. It is liable to be deflected?—A. Not from a slight obstruction:

Q. It is liable to be deflected if there is an obstruction?—A. Yes, sir; a material obstruction.

Q. And if there is deflection, you could not trace it back to the point from which it was fired?—A. No, sir.

By Senator FRAZIER:

Q. Suppose a bullet had struck the lintel of a house made of pine wood, and had only struck the lower edge of the plank, so as to make, in the first instance, something like a semicircular cut in it, and had crossed along the bottom of it just so as to be perceptible, would that indicate any deflection, and could not the location of the point from which it was fired be readily ascertained by looking along that groove?—A. Yes, sir; I should think the location of the firing point would be more readily ascertained than the striking place of the bullet, because the deflection would occur later.

Q. I am speaking of the point from which the bullet was fired.—A. Yes, sir; that ought to be almost absolute, I should think.

By Senator FORAKER:

Q. Would it not be difficult for you to look accurately along a groove such as has been described to you? If your eye were to be diverted in the slightest degree to the right or left from the exact center, or above or below, would not that make quite a difference in the result?—A. Well, it is only thirty one-hundredths of an inch, and if you have 5 or 6 inches to look along, you could get pretty accurate results, especially if you put something like this brass cleaning rod through the groove, as probably would be done by anybody investigating it.

Q. No; if you were just using the naked eye?—A. Without any other assistance—you could get it pretty accurately.

Q. The slightest wobbling of the eye up or down, or to the right or left, would make quite a change, would it not?—A. If one was used to shooting and aiming, they could get it pretty accurately, because they would line it down.

Q. If a shot were fired from this point where the letter "B" is on B barracks, inside the reservation, across to the point where my pencil is, the rear of the Yturria house, what would be the course of that bullet, or what should be the course of it, if it struck only a soft pine lintel?—A. I should say it would be a continuous, direct line.

Q. It would go in a direct line, would it not?—A. Yes, sir.

Q. If it should turn and go perpendicularly, or almost perpendicularly, that would be a rather singular thing, would it not?—A. Yes, sir; in ordinary pine, without knots.

Q. You never heard of a bullet being deflected while it was in the air, did you?—A. No, sir.

Q. It must strike some kind of a substance before it changes its direct course?—A. Yes, sir.

Senator FORAKER. I believe that is all.

By Senator FRAZIER:

Q. You say after a rifle has been fired a number of times, say 3,000, the lands are so worn that it does not make the same impression on the bullet as a comparatively new rifle; is that correct?—A. Yes, sir; that is correct.

Q. Could you tell from an examination of a bullet that has been fired as to whether it was fired out of a rifle that was comparatively new and had not been used a great many times or whether it was fired out of an old rifle that had been worn?—A. You could only tell in extreme cases. If there had been 4,000 or 5,000 shots fired, you could tell.

Q. If it was from an old, worn rifle, you could tell?—A. Yes, sir.

Q. As against a comparatively new one?—A. Yes, sir.

Q. Otherwise you could not?—A. You could not.

Q. It would depend entirely upon the number of shots that had been fired out of it?—A. Yes, sir.

By Senator LODGE:

Q. Do I understand you to say that the clip is used only with the Springfield new model?—A. This particular kind of clip.

Q. I mean that particular kind of clip.—A. The Mauser has a clip, and great many foreign arms have clips, but this particular kind of clip—

Q. Is used only with the Springfield?—A. Is used only with the Springfield, as far as I have been able to know.

Q. Assuming that those bullets which you produced from Brownsville here, and the empty shells that were produced from Brownsville, went together, these bullets coming out of some of those shells, could the shell and the bullet together have been used in a Krag?—A. No, sir; not in a Krag.

By Senator FORAKER:

Q. The Krag could be chambered so as to use it, could it not?—A. No, sir; the whole mechanism of the Krag is different.

Q. Is there any difficulty about it, except only the change of cartridge?—A. There is a cannellure in the base and a different method of ejection. It is quite different all through, practically.

By Senator LODGE:

Q. Then I understood you correctly that those bullets and those shells, used together, could not have been fired out of a Krag?—A. No, sir; they could not.

Q. One other thing. In taking a bullet out of a post, suppose it to be bored out with an auger, so that it comes out in fine grains. can you tell by inspection whether the jacket is mixed up with those grains of lead or not, or would it require a microscopical examination, or a very careful examination?—A. I have never had any experience with that, but I should think that the particles of the jacket, if they were cut by the auger, would be brilliant enough so that you could find them in the lead.

Q. More brilliant than new lead?—A. Yes; well, let us see about that. Yes, sir; I should think so.

Q. It would be new lead, of course, when the auger cut it up?—A. Yes, sir. Well, it would be very difficult to answer that.

Q. Unless you had had experience?—A. Yes, sir. I have never had any experience of that kind.

By Senator FORAKER:

Q. Would there be any difficulty about telling a .45 caliber lead bullet, if one should find it in a post and cut it out? Would there be any difficulty whatever in distinguishing that from a steel-jacketed army bullet?—A. I should readily think there would be things about the lead .45 so that you could readily distinguish it from the other; yes, sir.

By Senator LODGE:

Q. You mean if it came out whole?—A. Yes, sir.

Q. I am speaking of a bullet that came out in shavings, brought out by an auger. Nobody has seen it here.—A. That is, just a quantity of lead.

Q. I am simply giving you the description. The bullet was lost.—A. If you can get none of the cannellures in the bullet, or none of the shape of the original projectile, then it would be very difficult, of course.

Q. It came out in shavings, in particles.—A. Then I would think it would be difficult.

Senator FRAZIER. Bored out with an auger.

Senator LODGE. I am giving the description as it has been given. Nobody has seen it, except the man who dug it out.

Senator FORAKER. You will all have a chance to see it when the man testifies. He will be here. [To the witness:] You are of the Twenty-sixth Infantry, are you not?—A. Yes, sir.

Q. Do you know Lieut. Harry G. Leckie, of the Twenty-sixth Infantry?—A. Yes, sir.

Q. And you have known him and served with him for some months?—A. Yes, sir.

Q. What is his standing as a man and a soldier and an officer?—

A. As far as I have observed him myself, and from what I know of him, his reputation in the regiment, his character is very good.

Q. A truthful man, isn't he?—A. Yes, sir.

By Senator OVERMAN:

Q. How long have you known him?—A. I have known him by reputation, by serving in the same regiment at different posts, for three or four years; but in the same station, in the same place with him for

about six months.

Senat. Th. is al. cross to Y.

(At 3 p. m. the committee adjourned until Tuesday, June 4, 1907, at 10:30 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, June 4, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Warner, and Pettus.

TESTIMONY OF BRIG. GEN. ERNEST A. GARLINGTON, INSPECTOR-GENERAL, U. S. ARMY.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Please give your name in full.—A. Ernest A. Garlington, Inspector-General, U. S. Army.

Q. What is your age?—A. I was 54 years old on the 20th of February, 1907.

Q. How long have you been in the Army, General?—A. I entered West Point the 1st of July, 1872, and graduated therefrom on the 15th of June, 1876. Since that time I have been a commissioned officer.

Q. You were Inspector-General of the Army last year?—A. Yes, sir; I was appointed Inspector-General of the Army October 1, 1906.

Q. You had been engaged in that line of service for some time prior to that time?—A. Since February, 1895. I was appointed major and inspector-general in that year, 1895.

Q. You went down to investigate what was known as the Brownsville affray, did you not?—A. Certain features of it.

Q. Now, General, if you please, in your own way and without questions, just state where you went and what you did and what you ascertained, as near as you can?—A. In obedience to orders received from the Assistant Secretary of War, I left Washington on the 4th or 5th of February.

Q. Of last year?—A. Of 1906: with orders to ascertain, if possible, what members of the Twenty-fifth Infantry, who were at that time supposed to have committed the offenses charged in connection with the disturbance at Brownsville during the preceding August, were guilty, and in the event of failure to locate the guilty parties with the assistance of the members of that regiment, I was directed to inform them that they were being targeted with process. I first went to Oklahoma City, where Major Blockson was stationed, an inspector-general station, southwestern Division, who had been sent soon after the occurrence at Brownsville, to that city or town, to investigate and report. I arrived there two days after I left here, and talked the situation over with Major Blockson to ascertain whether any new evidence had been obtained or any information of any kind, and while there I was furnished with the report of a subsequent investigation made by Colonel Lovering. This investigation was made in certain features of the case at Fort Reno, to which place the battalion had been moved since the affray. I then went to San Antonio, where, held in custody of the military authorities, were twelve enlisted men of the Twenty-fifth Infantry who had

been at Brownsville. After reporting to the commanding general there and getting the proper authority to see these men, I interviewed each of them separately, and endeavored to induce them to talk to me and tell me what they knew, if anything, in connection with the affray at Brownsville, administering to them, all except Newton and Reed, an oath. I think those were the only two to whom I did not administer an oath. Well, I had quite a long conversation with each of these men. The investigation was pursued along the line of conversation, informally, with the view of getting them to talk as freely as possible. I was unable to find out anything from them bearing upon the subject of the shooting. Each and all of them denied any knowledge of the affray, and I was unable to find out anything about the affray itself.

Q. This was at what place?—A. This was at San Antonio.

Q. San Antonio. Pardon me if I interrupt you there, General. You say first you endeavored to have them talk with you?—A. Yes, sir.

Q. Did you there or at any other time during your investigation endeavor to restrict any of the enlisted men of the Twenty-fifth Infantry in any of the information they desired to convey to you?—

A. In no way whatever. On the contrary, my object was to induce them to tell me anything that bore in the remotest degree upon this occurrence. Shall I proceed?

Q. Yes, if you please.

By Senator SCOTT:

Q. I would like to ask the General one question here. In asking these colored men for information, though, did you not just put a question to them and let them answer it? You did not invite them to go on and make a full statement. You asked them a question and then asked them to answer it, did you not?—A. I pursued substantially this course: When each man came in I would ask him where he came from, ask him all about himself, to sort of loosen the thing up and get them to talk, and of course I asked questions which would indicate an answer to that particular question in each case; but I would ask them the general question to tell me anything they knew, not only of the affray itself, the occurrences of that night, but anything, any circumstance, any conversation, or any report that might have been current in the battalion, that would have a tendency to uncover circumstances that might lead to a clew as to who actually did the shooting.

By Senator WARNER:

Q. Was that course pursued in the entire investigation?—A. Yes, sir; all through.

Q. Now, as to San Antonio, have you finished as to that?—A. I saw all the men the first afternoon I got there, and I used up several hours in that conversation. I saw each one of them individually.

Q. That is, these men who were under arrest?—A. Yes, sir; and after a man was dismissed he was taken right away—that is, he was not allowed to communicate with the others at all. After I saw him privately he was taken right away without coming in contact with his companions, and I saw each of them that way, and the next morning

I sent for them again and had a further conversation with them, and after still failing to obtain any information, I told them substantially what would be the result if they continued to fail to give what information they had, to tell what they knew; that in the event of all of them still declining to give information that was supposed to be in their possession, they would be discharged without honor. Then they were dismissed, and I told them I would be in San Antonio until the following day and that if any of them had any communication to make, or wanted to see me again, to notify the officer of the guard and that I would be accessible to them. I remained there until the following afternoon, and having received no intimation from them, then I left Fort Sam Houston, asking the commanding general to notify me at Fort Reno if any of the men decided at any time to make a further disclosure, if they had any knowledge. After I arrived at Fort Reno I received a telegram from General McCaskey, saying that he had not received any information from these men. He thought perhaps they might have changed their minds and talked to him. Then I went to Fort Reno.

Q. Before getting to that, did you meet any of the officers of the Twenty-fifth while you were at San Antonio?—A. No, sir; there were none there. Then I went to Fort Reno, and when I first got there I called together the officers of the battalion who had been at Fort Brown. There were present Major Penrose, Captain Lyon, Captain Macklin, and Mr. Grier. Mr. Lawrason, who had commanded B Company at Fort Brown, was absent on leave.

Q. When was this? Give us the date, as near as you can.—A. As near as I can remember, this was about the 12th of October—somewhere around there.

Q. What was your purpose in calling those officers together?—A. I desired to find out from them whether they had been able to discover any facts, or any information of any kind, with respect to the shooting at Brownsville, and what efforts they had made with their various organizations to secure information, and what success they had had. We had a general conversation in the commanding officer's office, and I found that they had discovered nothing; they had been unable to uncover any clew whatever.

Q. That is, as to the individuals?—A. As to the individuals.

Q. Did these officers at that time and afterwards express to you their convictions as to the shooting having been done, or not having been done, by members of the Twenty-fifth?—A. Major Penrose had already expressed himself officially that it was his opinion that the shooting had been done by members of his organization.

By Senator SCOTT:

Q. He had done what? I did not catch that.—A. I think he had already officially expressed his opinion—reported—that the shooting had been done by members of his organization, the Twenty-fifth Infantry.

Q. Did he not retract that afterwards?—A. Not at that time. I have seen it reported that he has changed his opinion, has stated so before this committee. I have seen it in the papers. But this was before.

By Senator WARNER:

Q. He stated that he changed his opinion, as I remember, at the close of the evidence for the prosecution in his court-martial proceedings?—A. Well—

Q. The record will show that.—A. Yes, sir. He did not indicate at that time any opinion but that the shooting had been done by unknown members of the Twenty-fifth Infantry, and the only variation from that opinion as expressed in that interview, a partial one, was by Captain Lyon, who was very positive in his own mind that no members of his own company had been engaged in the affray. He expressed himself as having complete confidence in the innocence of the men of his own company, but not that the shooting had not been done by some members of the organization—of the battalion. I found that they had discovered nothing, although they all stated that they had tried to get information in every way that was within their power.

Q. That is, they had discovered nothing as to the individuals?—A. As to the individuals. This interview—this consultation—was held in the morning. I had looked over the muster rolls of the organization and found out the service of various members of the different companies, and selecting the names of the noncommissioned officers and privates of extended service and such men as were married, I made out a list of such men and furnished it to the commanding officer and asked him to have them report at his office in the afternoon for investigation. I saw these men. As I remember, there were somewhere between twenty-five and thirty of them. I saw them individually, and took them company by company and pursued the same course, substantially, as I did with the individuals in confinement at San Antonio. I endeavored to induce them to talk about the conditions existing at Brownsville before the occurrence, and to get them to relate to me any circumstances that might bear in any way upon the affray. I tried carefully to find out the feeling on the part of the soldiers towards the residents in Brownsville, to locate any trouble that they had had, or any misunderstanding of any kind, as I had done with the soldiers at San Antonio. The only trouble that I could locate was the instance of Private Newton and that of Private Reed—the occurrence at the ferry. One man told me that he had on one occasion gone into a drug store in Brownsville, and the proprietor was engaged in some conversation at the rear of the store and paid no attention to him, and after waiting for some time he went out and went somewhere else and bought what he wanted. With the exception of those three instances I could hear nothing of any kind of trouble at all.

Q. Of course, you heard of the Evans matter.—A. Oh, yes, sir; the Evans matter. But the soldiers did not know anything about that. They had no knowledge of the Evans affair—they claimed to have no knowledge.

Q. Yes.—A. I could not find that there was any feeling among the troops against the people of Brownsville. They at first uniformly denied any knowledge of these incidents that I have mentioned, or rather that the incidents had been discussed in the barracks.

Q. They denied that they had been discussed?—A. Yes, sir; that they had been discussed. My object in doing this was to find out

the feeling among the men, if they had any strong feeling against the people, and I found, according to their statements, that there was no feeling, and that these occurrences in regard to Newton and Reed had made very little impression upon the men. One man of Newton's company told me, in explaining that there was no feeling, no unusual feeling, about it, that when Newton came back with his head cut, it did not strike him as being anything unusual, because Newton had been in trouble before at various other posts where he had been stationed, and it made practically no impression on him. I found, though, by questioning them along that line, that they had all heard of those incidents, all of them; but they were very positive that they did not create any feeling of particular antagonism against the people. Well, they all, everybody examined, denied any knowledge of the men who did the shooting, as individuals, or having any knowledge of any circumstances before the shooting that would have a tendency to indicate who it was; and also they denied having heard anything after the shooting that would in any way tend to uncover the actual individuals who did it. Some of the men expressed themselves to this effect. They would say, "Some of them must have done it; but I don't know who did it. I would be very glad if I could to find out who did it. I would be glad to tell it if I could find out."

By the CHAIRMAN:

Q. Did you get at any time, from any of the soldiers there, any information of who did it, outside of the regiment or the battalion—that is; did they suspect anybody else who might have done it?—A. No. There were two men who expressed an opinion as to who did it. A man named Walter Johnson, of D Company, expressed his opinion that it must have been done by civilians. Corporal Watlington—I think he belonged to B Company—expressed that opinion also.

Q. Did they state who they thought did it—what citizens—or give any reason why?—A. No, sir; just that it must have been done by somebody outside of the soldiers; that they did not believe that the soldiers did it; that it must have been done by outsiders. Those two men expressed that opinion. With those exceptions, there was no intimation from any of them as to who did it. They simply denied all knowledge or information, or disclaimed all knowledge. Johnson, by the way, was in Mexico that night on pass, if I remember right.

By Senator WARNER:

Q. Did those two soldiers give any reasons why they thought citizens did it?—A. No; they had no reasons. They just felt sure. The idea they expressed was that they felt sure their own men did not do it, and they thought, therefore, it must have been done by somebody in no way connected with the soldiers.

Q. Proceed.—A. I talked to them all carefully. Some of them I put under oath and some I did not. The reason I did that was that I thought maybe they might talk more freely, not being sworn; and that interview with each man was of an informal kind, and my efforts there were to induce them to talk freely about this matter, and I explained to them that they might know some circumstance which to them did not appear important as leading to the guilty parties, but

that such circumstances put together by me or other officers might uncover a clew that would lead to the guilty parties. But they claimed to know no such circumstances, and they also claimed—the noncommissioned officers and the others, too—that they had tried, by listening at what people might say, to find out something about it, but they had been unsuccessful. After spending nearly all the afternoon in talking to the men, each of them was dismissed after he was questioned. I finished with the men that I had, and concluded, from my experience in Fort Sam Houston and with the men just examined, that if they knew anything they had made up their minds not to disclose it, as individuals, and after thinking over the matter I concluded to see them as a body and talk with them as soldiers. I knew they were more or less emotional, and I thought that perhaps being addressed as soldiers, and having their record recalled to them by the Inspector-General of the Army, some one or more might, under the influence of the moment, tell what he knew, if he did know anything; and therefore I requested the commanding officer to parade the battalion the next morning, at 9 o'clock, I believe, having every man present and every officer.

Every man was present excepting one man who was in the hospital. The doctor thought that he had better not come out. They were formed in the shape of a "U," and after they were formed I went out and took my place in the hollow of the "U," and told them that it had been established by investigation that somebody, probably a few men, had on that night gone out into Brownsville and shot into the houses of sleeping women and children, had killed one man and had wounded another so that he lost his arm, and that the War Department was very anxious to locate the guilty parties—those men who actually did the shooting; that the President himself was very much concerned about it, and I had been sent there—the Inspector-General of the Army had been sent there—to make an effort and give them an opportunity to discover the identity, to disclose the identity, of the guilty parties, so that the guilty might be dealt with, and so that the innocent might be separated from them. I told them there were many soldiers in the regiment who had served a long time, and there was a great deal at stake with them, and that the record of the battalion had been good; that they had performed valuable service, and that all those in authority were extremely anxious to locate the guilty, to separate the guilty from the innocent, and that I was there to afford them this opportunity, if they had knowledge, to communicate it. In my conversation with these men I had said to them, I think probably to everyone of them, that there must be some men in that battalion who knew who did the shooting, perhaps not before, and perhaps not during, but after, and I also asked them—particularly I know I asked the noncommissioned officers in conversation—about what their conception of their duty was, whether they thought they ought to help to locate these people, and they all said yes.

After talking to them and making these remarks as I have indicated, I then read them the orders of the President in the case, and my own orders, namely, that if the men did not disclose the guilty people they would be discharged without honor and debarred from reenlistment, and so forth. I told them that I would be there until

the next day—the next afternoon, I think. I left there in the afternoon. This was on the morning of Saturday, I think, and I left there on the evening of Sunday. I told them that I would be accessible to any man who wanted to talk to me; that if anybody had any information to give or desired to say anything, an intimation from him would be sufficient to enable him to come to me. All that day nothing happened; nobody came. The next day Sergt. Mingo Sanders, first sergeant of B Company, came to see me, and he showed me all of his discharges and said that he felt that it was very hard that he should have to go out of the service. But he gave me no information; still claimed that he knew nothing about it.

Q. Did Sergt. Mingo Sanders there at that time or in any previous conversation with you say anything about hearing shots over his head as he was going from where he was living to his company on the night of the shooting?—A. No, sir. Sergeant Sanders or no one, either officers or enlisted men, said anything about any shots going over the reservation during that night, and I asked particularly Major Penrose and some of these men if any scars of bullets or any marks of bullets of any kind had been discovered on the barracks or on any of the buildings, and when these men, Watlington and Johnson, said they thought the civilians must have done it, I asked them if they had discovered any marks of shooting on any of the buildings in the garrison, and they all said no. Major Penrose told me that he had never in his life made more diligent search for anything than he did for signs of bullets, and he was unsuccessful.

Q. That is, marks of bullets striking some of the barracks somewhere?—A. Yes, sir; being shot from the town.

Q. Yes.—A. Because he said he was not satisfied at first, the next morning, that the post had not been attacked as was his first impression, and he made this very careful examination and found nothing, absolutely. I believe he said there was one pane of glass broken, but there was nothing to indicate that it had been broken by a bullet.

I believe that, in general outline, is what took place, as far as I am concerned. I remember asking for the clips and shells, and so forth, claimed to have been picked up, and I was informed that they were not in their possession; that they were, if I remember right, in the hands of the civil authorities, held subject to the court.

Q. Did you there, while making inquiry for the shells and the clips, receive any information that Captain Macklin had picked up certain shells and clips and had them in his possession, in that investigation?—A. I think that I had knowledge of his having picked up some shells, but I did not understand that he had them in his possession at any time further than when he picked them up. My understanding was that there were no shells in the possession of any of the officers at that time, or at any time subsequent to my calling upon them for them as evidence.

Q. And you had made this specific request for shells, if they had them?—A. Yes; I asked for them. And Major Penrose told me, not during that interview, however, but afterwards—I am sure it was afterwards—that Captain Macklin had informed him the morning after the occurrence that while the officers and the civilians—the mayor and others, as I understand it—were in that alley making

examination, Captain Macklin had told him that while they were out there there were shells lying in the alley on the ground, and there being a good deal of excitement there, and feeling on the part of the citizens, to diminish it as much as possible, that he had with his foot covered up a lot of the shells with the sand.

By Senator FORAKER:

Q. Who was that?—A. Major Penrose told me that Captain Macklin had told him.

Q. That he, Macklin, had covered up the shells?—A. That he, Macklin, had with his foot covered up a number of shells.

By Senator WARNER:

Q. Did any of the officers, during your entire investigation there, express a doubt as to the fact that members of the Twenty-fifth had done the shooting up of Brownsville, other than the suggestion made by Captain Lyon that he was confident that no members of his company had done the shooting?—A. No, sir; none of them indicated any such thought. I remember Captain Lyon particularly making that remark, that he felt sure that no men in his company had done the shooting. Captain Lyon was the officer with the longest experience of colored men in that regiment. He had been in the regiment a long time, and had confidence in his own men. Mr. Lawrason, who commanded B Company, was not there. Mr. Grier, who was attached to the company and took command of it that night, was present.

Q. At page 199 of Senate Document 155 I find in a letter addressed to the President by Mr. Gilchrist Stewart the following statement:

In the investigation pursued by Inspectors Blocksom and Garlington they started upon the assumption that the soldiers were guilty. General Garlington read a peremptory order from the Department that he was to ask soldiers to state the identity of their comrades doing the shooting.

To this part I call your attention:

He examined about twenty-eight men of the battalion simply upon that one point, but would not allow them to go into an explanation to show that they could not possibly have known anything of the identity of those doing the shooting or into the condition of the rolls or the material facts which would render it impossible for them to know any of the incidents of the affair.

What have you to say about that?—A. That is not a correct statement in all particulars, in its entirety. I did start with the assumption that some men in the battalion did the shooting. As to preventing them giving information why they did not know anything about it, that is not correct. I did not prevent them from giving any information at all. In accounting for themselves that night, which I had them do in each case, to find out where each man was, and so forth, they told me where they were, or where they claimed they were, and that in itself, from their point of view, explained why they did not know anything about the shooting. Speaking generally, I did not prohibit in any way whatever the men telling me anything they desired to tell me or showed any desire to tell me. My whole effort, my whole object, was to get them to talk, and talk freely, my object being that during the talk I might get hold of something that would lead to discovering the guilty parties. He said there something about the roll call?

Q. Yes.—A. I covered the roll call as far as possible with the men who called it—who were supposed to have called the roll—and the officers who were present, and, as far as I could ascertain, the only real roll call had was that in Captain Lyon's company after he posted his men on the wall, in which he stated that he was present and was sure that an answer was made to each name. In the company that Mr. Grier had superintended that night I could not find that there had been any regular roll call. The men had counted at one period of the disturbance and there had been, so far as I could make out, an inaccurate roll call of B Company, but there was a good deal of confusion in the minds of all the men that I examined about those roll calls, because at the time that the companies were formed they all thought that the post was being attacked, and it can be readily seen that there was no particular importance attached to the roll call, as they explained to me that in counting the men and in trying to locate each individual their object was not to ascertain whether any man was out shooting up the town, but they thought some man was probably missing and might have been injured in the town. So at that time, at the time of the occurrence, the effort seemed to be to get the men into line, to get them into a position in which they could defend the post; because at that time Major Penrose and his officers were under the impression that the shooting was being done from the Brownsville side.

Q. And as a soldier I will ask you if that would not be the natural course—to get the men into line to defend, instead of stopping to call the roll?—A. Of course, to get as many men together as you could, and to get those few, whatever you could get, into position to use.

Q. Yes. I find also, on page 220 of Senate Document 155, in a communication signed by "Andrew B. Humphrey, secretary, and George H. White, of counsel," who were, I think, officers of the Constitution League, a statement, in referring to the affidavits of Thornton and McCurdy, which reads as follows:

He—

That is, yourself, General Garlington—
restricted them—

That is, the soldiers examined—

entirely to answering questions relative to what soldiers, if any, were engaged in shooting in the riot, and to matters bearing on the identity of those persons; and he refused to listen to any answers explaining where the soldiers were and the conditions which made it impossible for them to have knowledge of the identity of the rioters or any details or incidents of the alleged riot.

A. That is not the fact, sir.

Q. But on the contrary—A. On the contrary.

Q. (Continuing.) You say you encouraged them to talk and give any details, and any circumstances?—A. Yes, sir; that was my object.

By the CHAIRMAN:

Q. May I ask a question right there? How did you regard their disposition about talking? Were they entirely free about talking—loquacious—or were they secretive?—A. My conclusion was that

each man had made up his mind to say nothing; that is, not to say nothing, but each man had concluded—yes, to say nothing.

Senator WARNER. That is all.

By Senator FORAKER:

Q. The whole of your testimony is that you went down there in your capacity as Inspector-General of the Army, and did everything in your power at the time you were there to find out whether any of the men in this battalion were guilty; to identify, I mean, any of the men as guilty of shooting up the town; and that you came away without having been able to establish the identity of anybody?—A. That is true, sir.

Q. That is the upshot of it all, is it not?—A. Yes, sir.

Q. In that behalf you used all your special knowledge of the negro race in so far as it is different in its habits of thought and action from the white race, did you not?—A. Yes, sir.

Q. And you talked with them and tried to induce them to talk, and every man in the battalion with whom you talked denied emphatically that he had any knowledge on the subject, did he not?—A. They did.

Q. And you came to the conclusion that they were secreting knowledge?—A. That was my opinion, sir.

Q. And withholding it from you?—A. Yes, sir.

Q. But you did not find any evidence of that, did you?—A. No, sir.

Q. And you so reported, did you not?—A. Yes, sir.

Q. You said in your official report that while there was a possible understanding among the men—I think I am quoting you correctly—not to tell who the guilty parties were, yet you could find absolutely no evidence that there was such an understanding?—A. I stated that: yes, sir.

Q. So that you concluded the men were guilty because they would not acknowledge it, and you could not find any proof of their guilt?—A. No; not entirely.

Q. Well, is not that the fact, so far as your efforts were concerned?—A. I came to my conclusion that some men of that battalion had done this shooting—

Q. Now, right there, General—

Senator WARNER. Wait a moment; let him go on.

Senator FORAKER. Let him answer; yes.

Senator WARNER. Proceed.

By Senator FORAKER:

Q. Go ahead, if you want to answer it.—A. (Continuing.) Based upon the report of the officers who made the investigation on the ground.

Q. And you came to that conclusion before you went there?—A. I did.

Q. You went there firmly convinced that somebody in that battalion had done the shooting?—A. I did.

Q. You stated that practically in your report?—A. Yes, sir.

Q. And you have stated it just a moment ago, in answer to Senator Warner, that you started out with the assumption that some of the soldiers of this battalion had done the shooting?—A. Yes, sir.

Q. So that you did not make any effort to find out whether anybody outside of the battalion had done the shooting?—A. I made an effort in endeavoring to locate the individuals of that battalion, to get them to give me any information that might locate it, wherever it properly belonged.

Q. Yes; but how would men of the battalion, who, according to their stories, if you should believe them, were in bed and sound asleep when the trouble commenced, be able to tell you anything about who had done the shooting out in the town?—A. Well, I did not believe—

Q. Did you expect to get any such information from anybody in the battalion?—A. I did not believe that all of them were in the barracks asleep.

Q. No; but I am assuming now. They all told you that they were in the barracks, did they not, except those who were on duty?—A. In the barracks, or elsewhere.

Q. Or accounted for, and consistently with their duties?—A. Yes, sir.

Q. And it is a fact that in every way you could you tried to get information, and failed absolutely?—A. Absolutely.

Q. They all insisted that they had no knowledge?—A. Yes, sir.

Q. They all insisted that they had taken no part in the shooting?—A. Yes, sir.

Q. They all insisted that they did not know of anybody who had?—A. Yes, sir.

Q. Now, if they had been absolutely innocent, as some people are simple-minded enough to think they were, would you have expected them to say anything other or different from that which they did say?—A. Granting—yes; assuming the proposition as you state it; yes, sir.

Q. If they were innocent?—A. Yes, sir.

Q. You would have expected them, if they were innocent, to deny it?—A. Yes, sir.

Q. To deny that they were guilty?—A. Yes, sir.

Q. And you would have expected them to deny that they had any knowledge as to who the guilty parties were?—A. (The witness nodded his head.)

Q. Now, what I want to know is, how did the conduct of the men differ from what, in your opinion, it should have been if in fact they were innocent?—A. Assuming that they were innocent?

Q. Yes; assuming that they were innocent, how did their conduct, when you investigated, differ, and how did what they said differ, from what you would have expected their conduct to be and their reports to be?—A. It differed in this regard, in one way, that in the first stages of my talk with them they claimed that the incidents that had taken place where Private Newton and Private Reed had been assaulted created no unusual talk in the barracks; that the matter had not been discussed; that there was no feeling on the part of the soldiers against the people of Brownsville on account of these occurrences.

Q. You think that was different from what their statement should have been if they were entirely innocent?—A. I think it would have been natural—

Q. Before we go further let us understand one another. I understood you to testify in your examination in chief, in answer to a question put to you by Senator Warner, that these men all told you these incidents of violence to Newton and to Reed were not talked about and not discussed at all among them?—A. I did.

Q. And you said that just a moment ago?—A. Yes, sir.

Q. In answering the question which I put to you?—A. Yes, sir.

Q. And you repeat it now?—A. Yes, sir.

Q. Do you remember what was said on that point in your report?—A. Not exactly.

Q. Well, let me read it to you. I read from page 528 of Senate Document 155:

Under close inquiry it was admitted by each man that he knew of the discrimination made by saloonkeepers against the enlisted men of the Twenty-fifth Infantry; that he knew Newton had been hit by a revolver in the hands of a citizen of Brownsville, and that Reed had been pushed into the mud by another citizen. Each man admitted that these occurrences had been talked of and discussed within their hearing in the barracks of their respective companies, but I could extract no admission from any man that this discrimination and these acts of violence had caused any feeling of animosity on the part of the enlisted men of the Twenty-fifth Infantry against citizens of Brownsville.

Now, General, since I have read you that, would you not change the answer that you made a minute ago, that these men all told you that these incidents had not been talked about or discussed in the barracks?—A. I said at first they would not.

Q. Well, this is your report—A. If I remember right, it says "under close examination."

Q. Yes. You examined them very carefully?—A. Yes, sir.

Q. And they all admitted it?—A. They did finally.

Q. You do not intimate that at any time they denied it? Do you mean to tell us now, General Garlington, that these men denied to you that they had heard of these incidents, or denied to you that they had ever talked about them in the barracks? Do you want that to be understood and to stand as your answer in the record?—A. No, sir; I did not say that.

Q. You said it in your report, did you not?—A. No, sir; I do not think we understand each other. I will get my report, and see just what I said.

(A copy of the report referred to was here laid before the witness.)

Q. At page 528 of Senate Document 155 you will find what I have read to you. Perhaps I can save you some time, General. The men did persistently deny to you that they had any animosity against these people?—A. Yes, sir.

Q. Did you talk with Newton, himself?—A. Yes, sir.

Q. What was the statement that you made a while ago, that when you examined these men at Fort Sam Houston, you excepted Newton and two or three others from what you did as to other persons?—A. I did not put him under oath.

Q. You did not put Newton under oath?—A. No, sir.

Q. And who was the other man that you did not put under oath?—A. Reed.

Q. You did not put either of them under oath?—A. No, sir.

Q. But you talked with them just the same?—A. Yes, sir.

Q. Did they, too, say that they had no animosity?—A. No; I do not remember that I asked them whether they individually had any animosity.

Q. I only want to get the facts. But the men generally say they had no animosity?—A. Yes, sir; that is true.

Q. Now, it is true, is it not, that when you asked them about it, these men said they had heard of these incidents?—A. They did, under—

Q. And they said—

Senator LODGE. Let the witness finish his answer, Senator.

Senator FORAKER. Oh, yes; let us get every word.

Senator LODGE. You cut him short. He had not finished his answer to your question.

Senator FORAKER. Let him finish.

Senator WARNER. Certainly; I shall insist upon it.

Senator FORAKER. Insist upon what? We want a full answer, of course.

Senator LODGE. He said, "They did, under."

By Senator FORAKER:

Q. Under what?—A. Under question.

Q. Under question?—A. Yes, sir. Now, if you will allow me to explain, I would like to do so.

Q. Yes, certainly.—A. When I was talking to these men, I asked them before I made any reference to these particular incidents of alleged assault whether or not there existed among the soldiers any feeling of animosity, violent animosity, against the people of Brownsville? This they uniformly denied; they said that they had no feeling whatever. I asked if they had ever heard any conversation in the barracks among the men, other men than themselves, that indicated any such feeling on their part against the people of Brownsville. They all said no. I asked if they knew about the attacks on Newton and on Reed. They said yes. Then I asked them if they had heard it talked about in the barracks, and they would say, "No way particular."

Q. They said what?—A. In no general way; that it had not been discussed by the men together, several men, or in general discussion in the barracks; but they had heard, as individuals, they knew that this thing had occurred; they had been told of these attacks, but the attacks themselves had never been discussed; that the men had not talked about it and that the men had not shown any concerted animosity against the people.

Q. Let me read to you further, General. There is only one point about which I want to inquire:

Each man admitted that these occurrences had been talked of and discussed within their hearing in the barracks of their respective companies.

The CHAIRMAN. Go on and finish that.

Senator FORAKER. No; that is all that I want to read to the witness.

By Senator FORAKER:

Q. (Continuing.) Is that true, or not, General?—A. Yes, sir; that is true.

Q. Each man did know and admit that these occurrences were known to him and talked about in the barracks?—A. Finally,

Q. Look at your report and see whether there is any word "finally" in your report?—A. I am endeavoring to explain.

The CHAIRMAN. The witness should have the report before him.

(The report in question was here laid before the witness and examined by him.)

The WITNESS. Here it is: "Under close inquiry it was admitted by each man that he knew of the discrimination made by saloon keepers against the enlisted men of the Twenty-fifth Infantry; that he knew Newton had been hit by a revolver in the hands of a citizen of Brownsville and that Reed had been pushed into the mud by another citizen. Each man admitted that these occurrences had been talked of and discussed within their hearing in the barracks of their respective companies." That is correct; yes, sir.

By Senator FORAKER:

Q. That is correct. So that the only thing that surprised you was the fact, then, that they did not exhibit any animosity, or claimed that they had none?—A. Yes, sir.

Q. You were not surprised that they should have claimed that these incidents had not been heard of and had not been discussed?—A. Oh, no; that was not the idea.

Q. Wait until I finish my question. Because, on the contrary, they had been heard of and had been discussed; that is true, is it not?—A. That is true.

Q. Yes; that is all I want on that point. Now, then, was there anything else, except only their insistence that there was no animosity against the people of Brownsville, that was different in their conduct when you were making that investigation from what you would expect it to be if they had been entirely innocent?—A. No; I can not say that there was.

Q. So that it all comes down to this, that the only evidence you got from this investigation, besides that which you already had, to confirm you in the assumption with which you started in, was that they disclaimed having any animosity; that is it, is it not?—A. (The witness nodded his head.)

Q. Yes? I understand you said yes, sir?—A. If I understand you correctly, I say yes.

Q. Well, you can have the question read if there is any doubt about it. I think you understood it; I asked it plainly. Now, General, the fact that these incidents should happen caused you to think they would have animosity, did it not?—A. Yes, sir.

Q. A white man would have been apt to have had animosity, would he not, or would he?—A. I do not think the animosity would have been as general among white men as it would be among colored soldiers.

Q. Yes. You could find, however, no evidence that they had any animosity?—A. No, sir.

Q. None whatever?—A. No, sir.

Q. You simply assume that they generally had animosity, then, do you not?—A. I assume that with colored people an injury to an individual has a great deal more effect upon any community of colored people than an injury to a white man would have upon a community of white men similarly circumstanced.

Q. Now, General, tell us why you assume that.—A. I assume it because I think they are more clannish.

Q. More clannish?—A. Clannish.

Q. Yes.—A. They feel any injury of that kind more as an affront to their prestige than a white man does.

Q. Are they not a docile, quiet, well-meaning race, as a rule?—A. As a rule; yes, sir.

Q. And a rule, has not the conduct of the colored soldiers been good in the Army?—A. Yes, sir; as a rule.

Q. Has it not been particularly good in this battalion?—A. I beg your pardon?

Q. Has not the conduct of the men of this battalion been particularly good?—A. As far as I know, it has been good.

Q. Well, you are the Inspector-General of the Army, and familiar or supposed to be, with the records of the different organizations in the Army?—A. Yes, sir.

Q. Your duty requires you to be, does it not?—A. Yes, sir.

Q. Do you not know that this battalion up to the 13th day of August, 1906, had an exceptionally fine record as soldiers?—A. No, sir; I do not.

Q. Do you not know that Company D of that battalion, only a short time before that, two or three years, perhaps, had taken the prize as the finest drilled and disciplined battalion in the United States Army?—A. I did not know it.

Q. You did not know that?—A. No, sir.

Q. Did you never hear of it before?—A. I never heard of it before.

Q. Did you ever hear of any complaint being made against any one of these companies for lack of discipline and soldierly conduct, during all your experience in the Army?—A. These particular companies?

Q. Yes; those three companies.—A. No, sir.

Q. There were men there who had served for long terms, were there not?—A. There were.

Q. You say in your report they had served all the way from twenty-six years of continuous service down to shorter, but very long, terms?—A. Yes, sir.

Q. You took those long-service men into conference with you, did you not, when you were investigating?—A. I did.

Q. And did you not find them soldierly men?—A. Yes, sir; they were, as a rule, very good men.

Q. And you know, do you not, that they all have good records as soldiers and as men?—A. I do.

Q. You know some of them have served many years without leaving a blotch of any kind on their record?—A. Yes, sir.

Q. Do you not?—A. Yes, sir; I do.

Q. You referred to Mingo Sanders a while ago. He has served continuously for twenty-six years, has he not?—A. Yes, sir.

Q. He seemed to be very proud of his record?—A. Yes, sir.

Q. Are you familiar with his record?—A. Yes, sir.

Q. Can you tell us whether there is any black mark against it during all the twenty-six years of his service?—A. No; I think not.

Q. Not a thing?—A. He showed me all of his discharges, and they all gave him a good character as a soldier.

Q. And you did not doubt but what he was a good soldier?—A. I have no doubt against him, individually, up to that occurrence.

Q. Up to that occurrence? Well, now, they were all right, then, up until this occurrence. First, though, before I pass from that, do you think you could give us the record of any other soldier in the United States Army, from the time the Government was formed up to the present time, who served twenty-six years without having a single black mark against his record?—A. I could not, offhand, no, sir; not now.

Q. Did you ever hear of one as good as that?—A. Oh, yes; I have heard of records as good.

Q. You have what?—A. I have heard of records, I think, as good.

Q. If you would furnish us with some of them I would be very glad to put them in this record.—A. We have some very excellent soldiers in the Army.

Q. There are a good many thirty-year records, I know; but a man does not have to serve thirty years to be retired with his pay and allowances, does he?—A. No, sir; but there are many good soldiers.

Q. If you are familiar with the record, and could look it up and furnish us with the records of some soldiers with records as good as that, I would like to have them.

Senator WARNER. General Garlington will not have time to look them up to-day, I would suggest.

Senator FORAKER. No; of course not; I only asked him, and if he could have some one do that, I would be very much obliged.

By Senator FORAKER:

Q. Now, General, you recommended that all these men be discharged without honor, and at the time you made that recommendation you knew that quite a number of them had been discharged after the 13th of August, upon expiration of service, with excellent character and good record, and all that sort of thing, and that they had reenlisted in the service, did you not?—A. Yes, sir.

Q. How many were there in that category?—A. I do not remember; it is all in the record.

Q. There was Sergeant Frazier, of Company B. You remember him?—A. I remember him.

Q. He was a soldier of twenty years' service, was he not?—A. Yes, sir.

Q. And he had a splendid record; and his term of service had expired, had it not, after the 13th of August?—A. Well, I suppose that is so. I do not remember. I know that Sergeant Frazier had been first sergeant, and when I was at Fort Reno my impression was that he was not a sergeant—had been discharged—but I am not clear on that point; I do not remember.

Q. What was that last?—A. I say that I remember that Sergeant Frazier had been first sergeant, and I am under the impression that he was not first sergeant when I was at Fort Reno.

Q. Yes; he was a duty sergeant then.—A. But I do not remember exactly about when he was discharged. Of course that is shown on the roll here, of the company.

Q. Well, I will read from your report at page 530 of this Senate Document 155.—A. (Continuing.) I do not think that I saw Sergeant Frazier.

Q. I will read as follows:

The following changes have occurred in the companies of the battalion since August 13, 1906: Private Samuel R. Hopkins, Company B. discharged by expiration of service; Private Robert James, Company C. discharged by expiration of service, reenlisted for the Ninth Cavalry; Private Joseph Carter, Company C, discharged by expiration of service; Private John W. Lewis, Company C, discharged by expiration of service, reenlisted in Tenth Cavalry; Private Perry Cisco, Company C, discharged by expiration of service, reenlisted in the Tenth Cavalry; Private James A. Simmons, Company C, transferred to Company A, Twenty-fifth Infantry; Private August Williams, Company C, transferred to Company A, Twenty-fifth Infantry; Private Taylor Stoudemire, Company D, discharged by expiration of service, reenlisted in Ninth Cavalry; Cook James Duncan, Company D, discharged by expiration of service, reenlisted in Second Battalion, Twenty-fifth Infantry, Fort Bliss, Tex.; Private Alexander Ash, Company D, discharged by expiration of service, reenlisted in Ninth Cavalry; Sergt. Jacob Frazier, Company D, discharged by expiration of service, reenlisted in company—on furlough.

Now, turning to the official record of this soldier, as furnished by the War Department, we find that all those whose names I have read were discharged after the 13th of August, and that they had reenlisted before you made your report, and that they had been discharged honorably, with such commendations as the following in the case of Jacob Frazier:

Discharged September 20, 1906, on expiration of term of enlistment: Character excellent.

This was more than a month after this affair at Brownsville. A similar comment is made in the case of every one of those whom you mentioned, and yet you recommended that they should be dishonorably discharged, although they had been honorably discharged in the meantime. Did it occur to you that there was any difference in the cases of men who had been in the meanwhile honorably discharged and had gone out of the service and had been received back on reenlistment?—A. No; it did not.

Q. You thought they all should be discharged, wherever they should be found?—A. I could not conceive of any proper place to draw the line.

Q. What I want to know is whether you had that fact in mind or not, that some of them had been dishonorably discharged, and had been honorably reenlisted?—A. I knew that.

Q. You knew that?—A. Yes, sir.

Q. And you knew that some of them had been serving in other regiments than the Twenty-fifth?—A. I did.

Q. Now, to go back to your report: I read from your report, at page 529 of this document, where, after recounting all that you did, you say in regard to the men whom you called up before you at Fort Reno:

I proceeded with them practically along the same lines as with the prisoners at Fort Sam Houston, and found the same mental attitude on their part; could discover absolutely nothing that would throw any light on the affair, and received the same denial that any feeling of animosity or spirit of revenge existed among the enlisted men of the Twenty-fifth Infantry against the citizens of Brownsville on account of discrimination against them in the way of equal privileges in saloons or on account of the two acts of violence against their comrades.

That is all true, is it?—A. Yes, sir.

Q. Then you say further:

Each man questioned admitted that he knew of these acts of violence; each had heard it talked of in his barracks; but each denied that any feeling was displayed at any time by individuals of the respective companies or by the enlisted men of the companies as a whole. I could get no explanation of this apparent indifference to the indications of hostility that such acts on the part of citizens of Brownsville disclosed, except in one instance where a sergeant of the company to which Private Newton belonged said the fact that Newton had been assaulted made no special impression upon him, because Newton was liable to get into a row almost any time and had been battered up on previous occasions at Fort Niobrara.

Now, you did reach the conclusion, did you not, that the citizens of Brownsville had badly treated these men?—A. I reached the conclusion that it was claimed that the citizens of Brownsville had made a violent assault upon one man.

Q. That was Newton?—A. Newton; and had interfered with Reed.

Q. Yes. Now, let us take Newton for a minute. You found out from your investigations that Newton, as it was claimed, had been violently dealt with by the citizens of Brownsville?—A. Yes, sir.

Q. You were not surprised, were you, that there was no resentment felt by the men of the battalion generally on that account?—A. Yes, sir; I was surprised.

Q. You were surprised?—A. Yes, sir.

Q. Did you not get a satisfactory explanation from the sergeant of the company?—A. That was that sergeant's opinion.

Q. What?—A. That was that sergeant's own opinion and in explanation of why the occurrence made no impression upon the company—or claimed explanation.

Q. Well, would not that seem to be a plausible explanation for no resentment being felt by the men?—A. For men who knew Newton and men who were acquainted with his character and record. Probably a good many of the men knew nothing about Newton.

Q. A good many of them knew nothing about him?—A. Yes, sir.

Q. That is, you think a good many of the men did not know, as the sergeant did, that he had been in trouble before?—A. Yes, sir.

Q. Did you yourself see Newton?—A. Yes; I did.

Q. What kind of a soldier did he seem to you to be?—A. A very indifferent one.

Q. A very indifferent one?—A. A very indifferent one.

Q. What do you mean by that?—A. Not a high-class colored man at all.

Q. Well, I have never seen him; I am only asking for information. But are you aware that Captain Macklin testified that he was a splendid soldier—one of the best in his company?—A. No, sir; I was not aware of it.

Q. That he had been his company clerk, and he regarded him as a perfectly truthful man, and of good character, and reported him so?—A. No, sir.

Q. You were not aware of that?—A. No, sir; I had quite a talk with Newton. Newton comes from the same town in South Carolina that I lived in.

Q. You had a talk with him?—A. With Newton, yes. I say that he came from Greenville, S. C., and that was at one time the home of my family; and I talked with Newton as long, probably, as with any of them, and he was from Greenville, actually, because he knew

a good many people there, and he gave me the names of people whom I knew, and told me where he had lived; and he had several small scars on his face, as I recall, and he did not impress me well. I asked him if he had ever had any trouble at home, and he first said no. I asked him if he had ever been arrested while at home, and he finally said that he had been.

Q. He said that he had been?—A. Had been.

Q. What for?—A. For a fight; and, altogether, his appearance, manner of talking, and all indicated to me that he was rather of an indifferent character.

Q. If that be true, did not that prepare you to accept what the sergeant said about Newton without any question?—A. As far as the sergeant was concerned; yes, sir.

Q. You had no doubt but that the sergeant was telling you honestly what his opinion about the matter was, and why he had no resentment?—A. Yes, sir.

Q. Then did you presume that the other men did not know anything of these matters the sergeant referred to, and that consequently they would have resentment?—A. Not particularly because Newton was assaulted, as an individual, but that a soldier of the organization had been assaulted.

Q. You just thought that the whole battalion ought to be angry because Newton had been assaulted?—A. Not that they ought to be; no.

Q. Well, I mean that they ought to be in the sense that that was the natural effect. You inferred that as a matter of fact they were angry, and reasoned that it was for that reason, did you not?—A. I thought it was natural that there should be a feeling of resentment because of one of their body being, as they claimed, violently assaulted.

Q. Did you talk with the officers about it?—A. About Newton?

Q. Yes; about the matter of resentment on that account?—A. My recollection is that I asked them if they had ever observed any action on the part of the men that would indicate resentment against the people, and they all said no.

Q. They all said no. You did not find a man in the battalion, did you, commissioned officer, noncommissioned officer, or enlisted private, who said there was any resentment on that account?—A. Not one.

Q. Everyone said the contrary?—A. Yes, sir. They also said that they had no ill feeling because of their being debarred from the saloons.

Q. Now, passing Newton and coming to Reed, do you know when this Reed incident occurred?—A. I did know at the time, Senator. I can not remember exactly now.

Q. Well, I will tell you what the record shows. It happened, according to the testimony before us, on the day before this shooting affray.—A. Yes, sir.

Q. Late in the evening, Sunday evening?—A. Yes, sir; I remember it now.

Q. As they were returning from Matamoros?—A. Yes, sir.

Q. Reed was shoved off the plank?—A. Yes, sir.

Q. And that was regarded, was it not, as a very trifling incident?—A. Yes, sir.

Q. You did not think anybody would be justified in having any resentment on account of what happened to Reed, did you?—A. No; not after I knew what had happened.

Q. When you found out the nature of it?—A. Yes, sir.

Q. Reed himself admitted that he was in the wrong, did he not?—A. Substantially.

Q. He made no complaint of anybody? He did not want anybody punished for anything that had been done to him, did he? He admitted he had been drinking, didn't he?—A. Yes, sir; and, as I recollect it, he told me that he made no complaint.

Q. Made no complaint, and he told his officers?—A. The way he came to tell his officers was that he made a disturbance, as he explained it to me—he made a disturbance in barracks—that is, he made a noise—and his squad sergeant reported him to his company commander for making a noise after taps, and in explaining to his company commander why he was making the noise he said that he was telling about this occurrence down on the river.

Q. But there was nothing in that to justify any resentment on the part of anybody, was there?—A. Not on the part of Reed.

Q. And, besides, it happened too shortly before this serious occurrence happened to have given rise to it, did it not? They would hardly be able to organize such a conspiracy in so short a time, would they?—A. That, taken alone, would not have any effect upon it.

Q. You do not think that had anything to do with it?—A. No, sir.

Q. So that we get back to the fact that it was the Newton-Tate affair that created this resentment, if there was any, on account of the absence of which you were surprised?—A. Those men who knew the circumstances connected with the Reed affair of course attached little importance to it, but as far as I could make out there was undoubtedly a knowledge of the occurrence in all of the companies, and I think probably some of the men attached more importance to it than belonged to it.

Q. Since you have talked with Newton himself and concluded that he was an indifferent soldier and an unreliable kind of a man, and not of very good character (I get that impression from what you say), and since the sergeant told you what he did about him, do you think an affront to him would arouse the wrath and resentment of that whole battalion, the other two companies as well as his own company?—A. Not on the part of men who knew Newton.

Q. Not on the part of whom?—A. The people who were acquainted with Newton and his antecedent character.

Q. Why would the men in Company B or Company D be inspired to enter into a conspiracy to go out and shoot up the town and kill men, women, and children at midnight because Newton, a soldier and man of such a character as you have described, had gotten into some trouble?—A. I can not explain what induced them to do it. I can not explain what induced them to do it at all.

Q. I understood you to say that you got no evidence whatever that they did do that, but that you simply inferred that?—A. Inferred what?

Q. You simply inferred that they did it on that account?—A. No, no.

Q. You had no evidence to show that they did it?—A. I do not say on what account they did it.

Q. But you gave that as a possible explanation for it, did you not?—
A. A possible explanation for the cause of some feeling on the part of the soldiers.

Q. Cause of what?—A. A cause of possibly creating a feeling of animosity.

Q. That is what we have been discussing. I will leave that record just as it is. I want to read something else from your report at page 529:

The uniform denial on the part of the enlisted men concerning the "barracks talk" in regard to these acts of hostility upon the part of certain citizens of Brownsville indicated a possible general understanding among the enlisted men of this battalion as to the position they would take in the premises, but I could find no evidence of such understanding.

That is correct, is it?—A. That is right.

Q. Now, further:

The secretive nature of the race, where crime is charged to members of their color, is well known. •

Now, General, you say the secretive nature of the race is well known, and probably it is, but I never heard of that until I read it in your report. On what authority do you state that the secretive character of the race is well known?—A. I state it upon the authority of a lifetime of my experience with them.

Q. That is your own personal experience?—A. Yes, sir.

Q. You were brought up in a State where there were a great many negroes?—A. Yes, sir.

Q. You are a citizen, I believe, of South Carolina?—A. I was born in South Carolina; yes, sir.

Q. And appointed to the Military Academy from South Carolina?—A. From Georgia.

Q. So that you have lived all your life in communities where they have a great many colored people?—A. I lived with them; played with them as a child, was brought up on large plantations with them, and I know them. I think, as well—

Q. Yes, I inferred so. You speak of this well-known secretive characteristic. Is that general? Are they secretive about everything?—A. I think it is a general characteristic. I can not say it is about everything. Where it is to their interest to be secretive, I think they are secretive.

Q. You have limited it here to a case where they are charged with crime?—A. That I had in my mind; yes, sir.

Q. Now, I would infer from your statement that the man who is himself charged with crime is secretive, if he be a colored man. That is correct, is it?—A. Yes, sir.

Q. But why should another colored man, who is not charged with crime, who holds no responsibility for it, and who is being injured by it, be secretive about it?—A. I do not know why. I can not explain that.

Q. There is no reason why he should be, is there?—A. I think the fact exists, however.

Q. What is that?—A. I think, in my opinion, the fact exists that they are secretive.

Q. You think the fact exists because of what occurred in this instance?—A. Oh, no; not because of what occurred in that instance.

I think it is a general proposition that where a member of the race is accused of crime—

Q. Is it not true that there have been a number of shooting scrapes in the past, other than this night, where colored soldiers, not of this command, have participated?—A. Yes, sir.

Q. Has there ever been any trouble in any case to identify the men who participated in the shooting in those cases?—A. Yes, sir.

Q. Where?—A. Well, there was difficulty in identifying the men who did the shooting at Sturgis City.

Q. What was the difficulty there?—A. In getting any information from the men themselves.

Q. We have the record before us. I did not discover there was any difficulty there. What was the nature of it?—A. As I recollect the case, the information that led to the conviction of the men engaged in that occurrence was entirely from civilians.

Q. Well, as a matter of fact, there was no serious trouble in identifying the men who did the shooting there? They were identified. were they not?—A. They were; yes, sir.

Q. I am not going to stop to go over that record. We have it before us, and we can comment on it in connection with your testimony. Tell us of some other instance in which there was difficulty in discovering who participated in the shooting, in those cases to which you refer?—A. As I recollect it, there was difficulty in the case of the Ninth Cavalry at Fort Duchesne, I think it was.

Q. Fort what?—A. Fort Duchesne.

Q. I do not think we have that case here.—A. Whatever case it was, it was in the Ninth Cavalry. Colonel Bacon conducted the investigation.

Q. I think we have that report. I will make this examination short—A. I will say that that was an instance that I did not know of at that time.

Q. What did you say?—A. The instance I just related, I did not know of at the time I made that report.

Q. You did not know of that instance?—A. No, sir.

Q. Your attention has been called to it since?—A. Yes, sir.

Q. But they found the right men and punished them, didn't they, in that case?—A. No, sir; I think not.

Q. They never did? I do not know about that case. It is not in this record, that I recall.—A. There was a case (I think it is in the record, the case I refer to). I can not recall it now. I think it is Fort Duchesne.

Q. I should like to have you state fully what the case was, so that I may call for that record, if I want to.—A. A lot of men were tried for absence without leave.

Q. You can hand it to us another time. It is not necessary to take the time now. Now, let me read further from your report:

Under such circumstances,

That is, where they are secretive,

Self-protection or self-interest is the only lever by which the casket of their mind can be pried open.

Did not these men have that lever?—A. They did not avail themselves of it.

Q. You say they are secretive when charged with crime?—A. Yes, sir.

Q. But you intimate that there is a lever, self-interest and self-protection, which will pry open the casket of their minds?—A. It may.

Q. It may or it may not?—A. Yes, sir.

Q. In this case it did not?—A. It did not.

Q. Did you ever stop to consider how much self-interest they have at stake here?—A. I knew they had a great interest.

Q. What is it?—A. I knew that they had great interest.

Q. You appealed to them, did you not, in the name of their good name?—A. Yes, sir.

Q. And the good name of their companies and their battalion and their regiment and the Army to which they had belonged?—A. Yes, sir.

Q. And on behalf of the President, because of his interest in the matter?—A. Yes, sir.

Q. Each man, in addition to all that was at stake in that respect, had at stake also, had he not, the opportunity to get \$500 reward if he would tell? Were you aware of that?—A. I was not.

Q. That the governor of Texas had offered \$500 reward?—A. No, sir; I was not aware of it at that time.

Q. Do you think that would have a good effect in prying open the casket of the negro's mind?—A. I do not think it would to any great extent.

Q. You do not think they would pay any attention to a reward of \$500?—A. No, sir; not at that time.

Q. Would a reward of any amount be an inducement?—A. Oh, it would be an inducement; yes.

Q. Well, it would be self-interest, would it not?—A. Yes, sir.

Q. To the amount of the reward?—A. Yes, sir.

Q. And to save their good name and their honor, which they prized very highly, would be another?—A. Yes, sir.

Q. And then, while they were there at Fort Reno, while you were investigating them, they were kept under the strictest discipline, were they not?—A. They were; yes, sir.

Q. Confined to quarters, not allowed to go out?—A. I do not think they were confined to quarters.

Q. But to the fort?—A. Yes, sir.

Q. They could not go beyond the lines of the reservation?—A. No, sir.

Q. Had no liberties at all, and were kept on fatigue duty, were they not?—A. Yes, sir.

Q. In a state of practical confinement and practical punishment, were they not?—A. They were.

Q. And they were told that if they would impart this knowledge which you were seeking for, all those conditions would be changed, and that the innocent would be restored, were they not?—A. Well, that was the effect of it. I did not say so.

Q. So they did have a great deal of self-interest at stake, did they not?—A. Yes, sir.

Q. Which would have great weight with the ordinary white man, to have all those things within his grasp. Now, when you were down

there making this inspection, it was a considerable time after this affray had occurred, was it not?—A. I think the affray occurred on the 13th of August, and this was about the 12th of October.

Q. About two months had passed?—A. Yes, sir.

Q. There had been time for a good deal of investigation to be made by the officers and the noncommissioned officers?—A. Yes, sir.

Q. And these noncommissioned officers all told you they had been industriously endeavoring to find out who the men were, did they not?—A. Yes, sir.

Q. You tell us that none of these officers denied the assumption upon which you started, that some of the men of the battalion had done the firing, but that Captain Lyon expressed the belief that nobody belonging to his company had participated in it?—

A. Yes, sir.

Q. But nobody denied that somebody in the battalion had done it?—A. Are you referring to the officers now?

Q. Yes.—A. No one; no, sir.

Q. They seemed to be of the same opinion as yourself?—A. Yes, sir.

Q. They remained of that opinion, did they not, until after the testimony was adduced before the Penrose court-martial?—A. I saw that stated in the papers.

Q. And before this committee here?—A. Yes, sir.

Q. And then you also saw that they testified under oath that they changed their minds in that respect, did you not?—A. I saw it so reported; yes, sir.

Q. Have you ever changed your mind in any respect about it?—

A. No, sir.

Q. You have remained all the while of the same opinion that you started out with, when you say you went there with the assumption that somebody in the battalion had done the shooting?—A. Yes, sir; my opinion is that some men in that battalion did the shooting.

Q. But you have never been able to get any testimony that would give you any clew to who it was? About how many men do you think participated in that shooting?—A. I think anywhere from five to twenty.

Q. Can you not be more definite than that?—A. No, sir. I say five because I have noticed in the statements of some of the eye-witnesses, who claimed to have seen them, that they have only been able to locate five at any one time; and I think there were not over twenty to twenty-five, because they succeeded in eluding detection.

Q. You think what?—A. I think there were not over twenty or twenty-five, because of the fact of their ability to elude detection.

Q. Well, assuming now that there were only twelve or fifteen of them, that would be a pretty large squad of men, would it not, to engage in a shooting affray of that kind with the result that they evaded all efforts to identify them?—A. It would be large, but not among three companies.

Q. Have you formed any idea as to which company these men came from?—A. Well, I have no facts to go upon in that respect. I am inclined to think that the most of them came from B and C Companies.

Q. B and C Companies?—A. Yes, sir; but I have no evidence to base that upon.

Q. Do you think any of them came from D Company?—A. I think D Company is less liable to have had anybody in it than the others.

Q. What makes you think that, if you can tell anything?—A. Well, I think there was better discipline in that company than in the others. I think Captain Lyon was the most experienced man down there, and that he knew his men better than any of the rest of them, and I think he had better control, and that there was better discipline in his company.

Q. Do you think there was any lack of discipline in the other companies?—A. No; I can not say that I do.

Q. You can not say that you do?—A. No.

Q. Is not the record of both the other companies a good record for discipline?—A. As far as I know; yes, sir.

Q. And you were stating a while ago that you had never heard of anybody connected with either of those companies being guilty of any unsoldierlike conduct before the shooting affray?—A. No, sir.

Q. Have you heard of any of these men, since they were discharged, being guilty of any bad conduct as citizens?—A. No, sir.

Q. And you have kept pretty close track of them, haven't you, with the War Department?—A. Yes, sir.

Q. And you have never been able to hear of one of them who has been in any trouble?—A. No.

Q. Who has been guilty of disorderly conduct anywhere?—A. No; I have heard nothing against the companies, or any individual.

Q. All that is a good deal in their favor, is it not, with people in judging of the probability of their doing this shooting?—A. Yes, sir.

Q. Good records before and absolutely good records ever since. And now, have you stopped to think how many men beside those engaged in the firing squad would have to know about this if it had happened in the way suggested?—A. How many?

Q. Yes; have you stopped to think how many other men beside those who were in the firing squad, whether that was five or fifteen or twenty, how many other men would have to know about it?—

A. Oh, I think a great many would have to know about it.

Q. A great many would have to know. The guard would have to know?—A. Not have to know, but I think a good many do know.

Q. The guard would naturally have to know, would they not?—A. No, sir.

Q. They might slip out without the guard knowing it?—A. The sentinel on that post, but the guard itself would not know.

Q. I am speaking of the sentinel.—A. The sentinel would probably know; yes, sir.

Q. The noncommissioned officers in charge of quarters who carried the gun-rack keys would have to know, would they not?—A. Not necessarily; no, sir.

Q. The guns ought to be locked up, ought they not?—A. Yes, sir.

Q. And you are aware of the fact that each of the officers in charge of quarters has testified that the guns for his company were locked up and that he held the keys at the time of this trouble? You are aware of that fact, are you not?—A. I am aware that the noncommissioned officers in charge of quarters testified to that.

Q. You are aware that each one of them has so testified?—A. Yes, sir.

Q. That the guns were in the racks and that the racks were locked and he had the keys in his possession?—A. Yes, sir.

Q. And that there were no guns out at the time of the firing? You know they all testified to that?—A. It is so testified; yes, sir.

Q. And they could not testify truthfully to that effect if these guns had in fact been out, could they?—A. It is possible that the keys might have been taken from their possession without their knowing it.

Q. Do you not think that if this conspiracy was executed in the way you claim, or in the way it is claimed by others, that those officers in charge of the gun racks would necessarily know something about it?—A. I think it is probable that they would, but I do not think it is necessary. I asked those men where they kept the keys, and so forth. They said that the keys were kept under their pillows, under their heads. It is possible for them to have been taken out, and it is also possible to have duplicate keys, and it is possible that the gun racks were not locked.

Q. If they testify that they were to their knowledge locked; that they locked them up; that every gun was in the rack; that they counted every gun and locked the rack, and that the rack was not unlocked; that they had the key and the only key that was get-at-able in their possession, would not that be evidence that the guns were locked up, or that they had committed the offense of testifying falsely?—A. Yes, sir.

Q. One or the other. So you think they all testified falsely, do you not?—A. Well, no; I will not say that they all testified falsely, but—

Q. But some of them must have so testified?—A. I certainly do think so.

Q. You certainly think so?—A. Yes, sir.

Q. Well, you think that as to the sentinel, do you not?—A. Yes, sir.

Q. You think that as to the sergeant of the guard, Sergeant Reid?—A. Well, this firing could have been done without the sergeant of the guard knowing anything about the individuals.

Q. Did you talk with Sergeant Reid?—A. Yes, sir.

Q. How did he impress you with respect to the matter—that he knew anything about it or otherwise?—A. He claimed not to know anything about it.

Q. He claimed not to know anything about it, and he had a good record as a soldier, had he not?—A. I know nothing against his record.

Q. Did he not have the confidence of the officers who made him a sergeant and put him in a responsible position?—A. As far as I know, yes, sir.

Q. The very best men are selected for those positions, are they not?—A. That is the theory.

Q. They try to get good soldiers, and intelligent men and truthful men, do they not?—A. Yes, sir.

Q. When you talked with Sergeant Reid, did he impress you as telling the truth?—A. Well, I can not say that he did; no, sir.

Q. You can not say what?—A. I can not say that he did.

Q. You can not say that he impressed you as telling the truth?—A. No, sir.

Q. Did he impress you as telling an untruth?—A. Well, he impressed me as not giving me all the facts in the case.

Q. What did he do or say that gave you that impression?—A. Well, for one thing, he told me that the guard was formed in front of the guardhouse at the first alarm.

Q. That is, when the call to arms was sounded?—A. Yes, sir; and Sergeant-Major Taliaferro, who went to the guardhouse at the first alarm, told me there was no guard formed.

Q. General, let me refresh your recollection. Did not Sergeant-Major Taliaferro testify that when he got up to the guardhouse he saw some men prone on the ground, as though placed as skirmishers?—A. I do not know what he testified before the committee. He told me that when he got to the guardhouse there were only two or three men, he said there were two or three men out in front.

Q. Two or three men whom he saw, did he not?—A. He did not speak of those he did not see.

Q. It was a very dark night, according to all accounts, was it not?—A. As I remember it was a starlight night.

Q. You have no personal recollection of the character of the night, have you?—A. Oh, no.

Q. Is it not true that what the sergeant-major, Taliaferro, told you was that when he went to the guardhouse he was looking for Major Penrose, and he stopped there only a moment, and that he saw the sergeant of the guard there, and only two or three men of the guard, who were prone on the ground, and he did not know where the other men of the guard were. Is not that what he told you?—A. No.

Q. What did he tell you?—A. He told me he went to the guardhouse and there were only two or three men in sight in front of the guardhouse; and if the guard had been formed there should have been six men at least.

Q. How many?—A. Six. I think the guard was three posts, if I recollect.

Q. Have you been looking over the testimony taken before this committee as it has been taken?—A. No, sir. I saw some of it in the early stages. I have been away, out of the city a great deal. I have been here very little.

Q. I suppose so. I can understand why you would not read it, as there has been a good deal of it; but are you not familiar with the fact that the testimony is that the guard was formed, that all the men were there except only those who were on post at the time, and that immediately a corporal and sergeant were detached to go to guard No. 2, who was calling for relief, and then the sergeant disposed his men as for protection, putting some in the rear of the guardhouse and some at different stations roundabout? Are you not aware that that is the testimony?—A. No; I am not aware of the testimony as to the disposition of the guard. I remember seeing some of the testimony, I remember seeing that remark about their being thrown around the guardhouse some place.

Q. Was there anything except what Sergeant Reid told you about parading the guard or forming the guard that made you think he was telling you an untruthful story?—A. No.

Q. That is all, is it? So, if that should be cleared up, you would

have no ground for disbelieving his statement, would you?—A. Well. I believed that they were all withholding information.

Q. Why do you think they were all withholding information? Do you think that men who went out to do this would tell all their comrades before they went that they were going to do it?—A. No; I do not think they would, but I do not think it possible for those men to have gotten back into the company without some of the members of the company knowing it. I do not think it is possible for them to have cleaned their guns without somebody knowing it.

Q. Do you think they would tell their comrades, who did not know anything about it, after the shooting affray, that they had been in it? Do you think they would tell them afterwards?—A. I should think very probably that they would tell some friends.

Q. They must have told it for their comrades to know it either before or afterwards, must they not?—A. Not necessarily have told it.

Q. Well, before, that they were going out to shoot up the town and might kill somebody, or, afterwards, that they had shot up the town and had killed somebody. After they were under the charge of having killed some one, do you think they would go around telling it?—A. They were not under the charge of having done it until the next day.

Q. I am talking about the next day.—A. The night intervened. from the time of the shooting until the next day, when the issue was drawn.

Q. Your idea is that those men returning from the town after the firing would be seen and recognized by all the battalion?—A. Not all: no, sir.

Q. How many of the battalion, do you think, have guilty knowledge?—A. I could not say how many.

Q. You have said at the outside there were not more than twenty or twenty-five, according to your judgment, engaged in the shooting up of the town?—A. Yes, sir.

Q. And perhaps no more than five. There were 167 men discharged?—A. Yes, sir.

Q. How many of those 167 do you think had no knowledge of it at all?—A. I think it likely that a certain proportion—I can not state exactly what that proportion is—have no knowledge of it. I think that a large number of them do have knowledge of it, that they have acquired in different ways; that they either saw some of the men coming back, saw men cleaning their guns, or else men who went up and did the shooting successfully, killing a man, on coming back talked about it, and in that way it could spread.

Q. But all that is mere inference?—A. Yes, sir.

Q. You have no testimony?—A. As I started out by saying, I have no knowledge.

Q. You so state in your official report?—A. Yes, sir.

Q. And that you had made diligent effort, and that the officers apparently had done so, and Colonel Lovering had, and Major Blockson had, and as far as you could learn the noncommissioned officers had, and nobody has been discovered, so far as identity is concerned?—A. That is right, sir.

Q. And that is still true?—A. That is still the fact.

Q. And you think those men refused to tell because they had a common understanding, or a "conspiracy of silence" as it has been termed, not to tell?—A. I will not say that there was a conspiracy, but I believe that there was a general understanding—it may have been individual, or one or two, or what not—that they would not say anything about it, and I believe that some of the men have purposely avoided knowledge of it, that they desired not to know anything about it, and that they have followed that line.

Q. Well, however that may be, you have stated in your report that you had no evidence whatever of any such understanding?—A. I have stated that several times; yes, sir.

Q. Could not get any evidence of guilt, and could not get any evidence of an understanding to suppress knowledge of guilt. Mingo Sanders came to see you and to appeal to you to look at his discharges, did he not?—A. Yes, sir.

Q. And to allow him to remain in the service. He had a pretty strong case, had he not?—A. He had as fine a record as any soldier could wish to have.

Q. Twenty-six years' continuous service, and a part of that outside of the country?—A. Yes, sir.

Q. For which he was allowed double time?—A. Yes, sir; that makes his twenty-six years.

Q. He only had two and one-half years longer to serve to entitle him to retire for life on three-quarters' pay and allowances?—A. Yes, sir.

Q. And all that was taken away from him?—A. Yes, sir.

Q. Now, you were down there investigating to find out which men did this firing. You were addressing yourself entirely to that subject, were you not?—A. Well, I was anxious to find out if they could give me any evidence that would lead to anybody, outside as well as inside.

Q. Yes; but in all your conversations you addressed yourself to that inquiry, did you not, "which of you people did this thing?" That is what you were trying to find out?—A. Yes, sir.

Q. You assumed that some of those men were guilty?—A. I did.

Q. Started out with that assumption and never have had any other opinion from that minute until this?—A. I have not.

Q. And so all the time you were talking to these men it never entered your head that somebody other than the soldiers might have done the shooting?—A. Well, they might have done it, but it never entered my mind that they did do it.

Q. Did that enter your mind at all?—A. Oh, yes.

Q. Did it enter it so as to create any doubt as to whether the men did it?—A. No; I had no doubt then and I have no doubt now.

Q. You had no doubt then and you have no doubt now and have never had any doubt, from the beginning down until this time, and therefore you did not waste any time in trying to find out whether or not some one else might possibly have done it?—A. I wasted no time; no, sir.

Q. You were addressing yourself to the men to find out "which of you men did it?" and your inquiries all ran along that line, did they not?—A. Yes, sir.

Q. You say there was only one roll call that night, so far as you

can find out, and that was of Company D after it was stationed behind the wall. What do you know about the roll call in Company B?—A. Only what Mr. Grier told me.

Q. No; Mr. Grier was commanding Company C. I am talking about Mr. Lawrason's company, Company B.—A. Yes, sir.

Q. Was not that a complete roll call?—A. Mr. Lawrason was not there. Sergeant Sanders gave me the information about that roll call.

Q. Didn't he tell you that he had the roll and called it from beginning to end, by the light of a lantern—that he called every name?—A. After he got there, yes, sir; but Sergeant Sanders was not there when the company was formed.

Q. The testimony is, General, that he was not there at first, but he got there while the company was forming, and immediately formed the company, took charge of it, and proceeded to call the roll; that Mr. Lawrason was superintending it, and the testimony is that each man had his rifle, and had it at the right shoulder, and that as his name was called he not only answered to his name, but brought his rifle to the ground, to an order arms. Would not that indicate that it was a rather formal roll call?—A. If there is such testimony; yes, sir.

Q. So that you do not mean to say that the roll call in Company B may not have been a regular and complete roll call?—A. My impression, that I got from Sergeant Sanders, was that he was not prepared to absolutely swear that each man was in the company at its formation.

Q. Do you mean to say that he reported to you that every man in the company was not either present or accounted for?—A. No; but in going over the details of the call he said a man answered to every name, but whether the proper man answered or not—

Q. He has testified that he knew every man's voice.—A. My impression about the roll call, Mr. Senator, as to the accuracy of it, was due more to the circumstances, and the importance of the roll call not suggesting itself to them at that time, in the initial stages.

Q. That is to say, you assumed that in the excitement of the moment, in their anxiety to get out behind the wall or wherever they were to take position to defend themselves, they would not stop for an accurate roll call?—A. And in what they told me about it, in the way that the roll was called.

Q. And yet, as a matter of fact, they might have made an accurate roll call?—A. They might have; yes, sir.

Q. And the men who were there, the officers and the noncommissioned officers, would know more about it than you would know?—A. Certainly.

Q. You would not undertake to dispute what Mr. Lawrason would say about it?—A. No, indeed.

Q. Would you dispute what Sergeant Sanders would say about it?—A. I would not accept Sanders's statement absolutely; no.

Q. You would not accept the statement of any colored man in that battalion absolutely, would you?—A. Not now; no, sir.

Q. Not one of them, and you would not at that time, would you?—A. At what time?

Q. When you were making the inspection?—A. Not without corroboration.

Q. As a matter of fact, every man in that battalion, to your knowledge, had already testified under oath, that he had not participated in that firing, and had no knowledge of it, had he not?—A. Not exactly; no.

Q. You knew, did you not, that every man had been examined?—A. When? Let me get the time.

Q. Immediately after the affair the officers had examined them, had they not, taken the affidavits of the men?—A. I do not think I knew that at the time.

Q. You did know at the time, as I understood your testimony this morning, from Major Penrose and from the other officers of that battalion, that they had been busily occupied in every way—A. Yes, sir.

Q. Examining the men?—A. Yes, sir.

Q. Taking their affidavits and trying to find out—A. Yes, sir.

Q. Who was guilty—you knew all that?—A. Yes, sir.

Q. And all that counted for nothing with you in determining the guilt of the men, did it?—A. No.

Senator FORAKER. That is all.

By Senator WARNER:

Q. I understand your answer to the last question, General, that you learned from Major Penrose that in the intervening time from August 13, the date of the shooting affray at Brownsville, up to the time that you were there, they had been investigating the matter to find out who the individuals were who did the shooting?—A. Yes, sir.

Q. In all that investigation did he intimate to you that there ever was a question in his mind but what it was some members of the battalion that had done the shooting?—A. Not the slightest doubt about it was expressed, and when I left Fort Reno Major Penrose said to me that he hoped before I got here to Washington to have a telegram giving information; that he hoped that some man would finally give him some information that would be of some use in locating the guilty ones.

Q. That is, the individuals?—A. Yes, sir.

Q. When you spoke of the roll calls and which ones were accurate, you were asked about the testimony that had been given before this committee. You formed your opinion from the statements made to you by the noncommissioned officers and the commissioned officers?—A. Yes, sir; entirely.

Q. And from that you made the statement as to the roll call?—A. Yes, sir. I have not seen this testimony. I only saw fragments of it. I have been away a great deal all this winter. I have been away on various trips.

Q. Your attention is called to your report, to what you state in your report.—A. Yes, sir.

Q. And that was after as careful an investigation as you could make?—A. Yes, sir; that was the result of my inquiry, and my honest opinion.

Q. Now, as to the formation of the first fire, you stated about that. From whom did you get your information?—A. Sergeant-Major Taliaferro.

Q. And this was during your investigation?—A. Yes, sir. Sergeant Taliaferro impressed me as a very intelligent man.

Q. What was the substance of that information as to the formation of the guard?—A. He went to the guard immediately after the alarm sounded, because he expected to find the commanding officer there, and when he found that he was not there, of course he went away; but I asked him about the guard, asked where the guard was posted, and so forth, and he said he saw only two or three men standing in front of the guardhouse. The examination was not especially with reference to the formation of the guard, it was an incident, just Taliaferro's statement.

Q. Sergeant-Major Taliaferro, in going there, went from what is known as the administration building, didn't he?—A. He went from where he slept, and I think he slept in the administration building; yes, sir; and then he went over and found Major Penrose at the barracks, and he was sent from there to Captain Macklin.

Q. I find in connection with what has been read to you, on page 528 of Executive Document 155, in your report, you say:

I examined each of the prisoners.

That was the time you examined them—A. At Fort Sam Houston.

Q. At Fort Sam Houston?

I examined each of the prisoners very carefully, first in the form of general conversation, referring to the personal history of the man, including the place of birth, home, former occupation, and relations in civil life. I found that several of them had lived in localities with which I was more or less familiar, one having lived at my own home; and then subjected them to a rigid examination. As soon as the subject of the trouble at Brownsville was introduced, the countenance of the individual being interviewed assumed a wooden, stolid look, and each man positively denied any knowledge of the circumstances connected with or individuals concerned in the affair.

That is correct, is it?—A. Yes, sir.

Q. How did that apply with reference to those that were examined, other than the prisoners?—A. Practically the same throughout. They were immediately on the defensive, and they took that cast of countenance which I have described there as wooden, that is, expressionless, as many of them can take that expression, which is familiar to me, but rather difficult to describe.

Q. Have you heard of any organization among troops, whether colored or white?—A. No; nothing further than at posts where I have been stationed, members of the Odd Fellows, or something of that sort. I know of no—

Q. No secret organization?—A. No, sir; never heard of any.

By Senator FORAKER:

Q. Just a question or two that I forgot. You said that you heard somebody say that Captain Macklin found some shells in the alley and covered them up with his feet.

Senator WARNER. He said Major Penrose told him that.

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. Major Penrose told you that. Where was it Major Penrose told you that, and what was it he told you?—A. He told me that while I was at Fort Reno.

Q. Making this investigation?—A. Yes, sir.

Q. Where were you at the time when he told you this?—A. Either in his office or in his house.

Q. Either in his office or in his house?—A. Yes, sir.

Q. Who was present when he told you this?—A. I don't recall that anyone was present.

Q. What was it he told you, as nearly as you can give it?—A. In discussing the subject—of course we talked about this subject all the time that I was there—in speaking of the finding of shells and clips in the alley, he spoke of the time when he had changed his mind from the assumption that the post was being attacked, which was based upon the fact of finding these shells and clips in the alley.

Q. That was the next morning?—A. The next morning, and I wanted to know about how many shells he found there. Of course he could not tell how many, but he spoke of a good many. He said there were a good many shells there.

Q. Did I understand you to say that he said he found them, or that they were found?—A. No; he did not say.

Q. He did not claim to have found any?—A. No; my recollection is that he saw some there; that he saw some himself.

Q. In the alley or after they were brought to him?—A. In the alley.

Q. Well, let us have your own story.—A. He said there were a good many shells in the alley, and that Captain Macklin had told him that there were so many of the shells around him where he happened to be standing that he had with his feet covered them up with the sand.

Q. Captain Macklin had covered them up with his foot, and with sand?—A. Yes, sir.

Q. A lot of these shells?—A. Or with the dirt; I don't know whether sand or not.

Q. Either one. One will do as well as the other. What did you say about that?—A. I don't know that I said anything.

Q. Why did Captain Macklin cover them up?—A. The idea was, as I have stated in my testimony, that these civilians were there—Mayor Combe and some others—and that he did not want to make it any more pointed than it was that the probabilities were that it was done by the soldiers, and that he covered them up.

Q. Was the mayor present when he covered them up?—A. I am not sure.

Q. Or any civilian?—A. There were some civilians there, and I think it was the mayor and some others.

Q. Some of the civilians were present when Captain Macklin did this?—A. I understood Major Penrose to say so.

Q. I want to get this story accurately, as you got it. So, now, if I understand you correctly, Major Penrose told you that Captain Macklin told him that he was out in this alley—that is the Cowen alley, I suppose?—A. Yes, sir.

Q. And that he found so many clips and shells there that he covered some of them up in the sand, or in the dirt, with his foot?—A. Some of them.

Q. So that the citizens would not see them?—A. Yes, sir.

Q. And that the mayor was there and some of the civilians at the same time?—A. I will not say positively that the mayor was there but there were civilians present.

Q. There were civilians present with him at this time?—A. There or in the vicinity.

Q. And you got the impression that Captain Macklin did this to keep the civilians from seeing them?—A. That is what I did, sir.

Q. If they were present there with him, would not they see the clips as well as he?—A. They might not have been right there. Captain Macklin evidently thought that he could do it without being seen. That was the idea that I got from Major Penrose.

Q. And that was all there was to that statement, was it?—A. Yes, sir.

Q. Just one other thing. You said a while ago that you would not believe these soldiers without corroboration—would not believe any of them who denied that he had participated in the shooting, or that he had knowledge of the shooting. I understood that, in effect, to be your statement.—A. That is substantially what I stated. I did not state that I would not believe any of them who denied participation, because I believe that there are a great many of those men who did not participate.

Q. I could not get you to say about how many. You say a great many of them. Have you any idea how many?—A. Who did not participate?

Q. Yes.—A. I think, as I said—

Q. I do not mean how many did not participate, but how many do you think had no knowledge as to who did participate?—A. That would simply be a guess.

Q. You would not believe any of them who denied having knowledge as to who did the shooting?—A. Not without corroboration; no, sir; not now.

Q. If anyone would come forward and tell you that he knew who did the shooting, would you believe him?—A. Not unless he had corroboration.

Q. Not without corroboration?—A. No, sir.

Q. You would not believe him either way?—A. No, sir.

Q. You have not any confidence in the word, even under oath, of a colored man, have you?—A. Oh, yes.

Q. You have?—A. Yes, sir.

Q. You do not seem to have any confidence in the word, even under oath, of any member of this battalion.—A. I have not, not now.

Q. And you did not have then, did you? I understood you to say a while ago that you did not have then.—A. Not after the time I became associated with them.

Q. Don't you think a great many of those old soldiers and those noncommissioned officers were a splendid class of colored men?—

A. Yes, sir.

Q. They always had borne good characters?—A. Yes, sir.

Q. Truthful men?—A. Yes, sir.

Q. And yet you would not believe one of them, even if he would say he had shot up the town?—A. I would believe him if he would say that.

Q. You would believe that of any one of them, wouldn't you?—A. If he admitted that he shot it up; yes, sir; I would.

Q. If any man would come forward and say that he shot up the town, or that he knew that this, that, or the other man did it, who was a member of the battalion, you would believe him then?—A. No;

I would not accept any one man's information or statement as to another who did the shooting. In other words, I think that the condition now is that you can not get the truth from those people about the Brownsville incident. That is the general proposition I make.

Q. You said that was the case when you were there, too, didn't you?—A. After I talked to them a while.

Q. Well, I say, you came to that conclusion?—A. Yes, sir.

Q. And yet that is the very thing you were trying to get out of them, and the very thing you recommended that they be dismissed for, because they would not tell you who it was that did it?—A. Yes, sir.

Q. You stood ready, then, to believe any man who would come forward and say "I did not do it, but somebody else did it?"—A. I stood ready to follow up any clew that any of those men gave me, and then to pass my opinion upon what I found.

Q. But you would not have believed them without corroboration?—A. No, sir.

Q. None of them? How long have you had such a disparaged opinion of the veracity of colored men?—A. I did not say that of colored men. I am talking about the Brownsville battalion.

Q. Do you think colored people, generally, are truthful?—A. No, sir; I do not.

Q. You do not?—A. No.

Q. You would not believe their testimony ordinarily, even under oath, would you?—A. Where their own interest, or some special interest, was concerned. It depends entirely upon the circumstances.

Q. You think a colored man might testify truthfully about the weather, but that he would not testify truthfully about a crime?—A. He might have some difficulty in testifying about the weather.

Q. Just now he would, but if he were testifying about a crime that he was charged with, or that some of his comrades were charged with, you would not believe him?—A. Not without corroboration.

Q. You say there is no secret society among soldiers that you know of, either white or black?—A. I never heard of any.

Q. Now about Newton. You said he came from your town, Greenville, S. C.?—A. Yes, sir.

Q. And he admitted to you that he had once been arrested for fighting?—A. Yes, sir.

Q. Any other arrests?—A. No.

Q. Or any other trouble?—A. No. He told me who he lived with; and Sergt. Mingo Sanders is from my own country, too.

Q. He is from South Carolina, too?—A. Yes, sir.

Q. And you would not believe him under oath?—A. Well, not now.

Q. You would not believe him under oath, although he served twenty-six years in the Army, at home and abroad, in Cuba and the Philippines?—A. Yes, sir.

Q. And has as splendid a record as any man in the Army?—A. Yes, sir.

Q. And although his officers come forward and say he is an entirely truthful man, according to their observation and belief, still you would not believe him?—A. I would not believe him, not now, because of my confidence that he did not testify to the whole truth in this investigation.

Q. He did not?—A. That is my opinion.

Q. In what particular?—A. In the particular of hearing bullets whistle over his head.

Q. You think he did not hear that?—A. Yes, sir.

Q. You think he did not hear any bullets?—A. I do.

Q. Are you aware of the fact that it has been testified by one of the policemen and by the mayor, too, that there were shots fired in that direction?—A. No, sir.

Q. Are you aware of the fact that Major Blocksom has testified that in his opinion some of the first shots were fired over the reservation?—A. No, sir; I do not remember that.

Q. Are you aware of the fact that out at the hospital the attendants there, some of the noncommissioned staff of the hospital corps, testify that they heard bullets coming over from the same general direction?—A. I am aware of the fact that the hospital steward testified that he heard bullets pass his house, but I am not entirely sure that he is correct.

Q. You doubt that?—A. Because he was inside the house, and he testified that he heard those bullets passing, and I do not think it possible for him to have heard any bullets passing.

Q. The fact is that you accept with distrust every statement that looks toward acquitting these men of complicity in this affair, do you not?—A. No, sir.

Q. You do not?—A. No, sir.

Q. Will you tell us of one that you have accepted without distrust?—A. I have not heard any that I know of.

Q. You have not heard anything said in their favor that you have accepted as true, have you?—A. I have not heard of any; no, sir.

Q. You have not heard of any?—A. No testimony that some individuals of that battalion were not engaged in this firing.

Q. Anything at all that is inconsistent with that theory you reject as untruthful, do you not?—A. I reject it as inaccurate; yes, sir.

Q. And unreliable and not to be believed?—A. My opinion is—

Q. That is all.

By Senator Scott:

Q. General, I want to ask you one question. Having the opinion that you have that there is no question but that the colored men did this shooting, what do you think was their motive in doing it?—A. I think it was probably a sudden impulse, an uncontrolled impulse that arose from a supposed injury, and the Evans incident, and the fact that their privileges had been taken away from them and they had been confined to the barracks that evening, and not knowing exactly, the majority of them, why they were confined, and they ascribed it to some sort of action on the part of the people of Brownsville, and I think some badly disposed men—it just occurred to them to go out. Those patrols that went out—I think two patrols were sent out during the evening—I do not think it was premeditated; I think it was one of those sudden emotions that come to people who are not self-controlled, and who are more or less emotional, and they got hold of their guns and ran out there and did the shooting.

Q. But in your association with them during this investigation, as I understood you a while ago, you did not find any bitter feeling?—A. None at all.

Q. That is all. I just wanted to know what the motive was.—
A. The men there with these two exceptions disclaimed any bad treatment from anybody.

By Senator LODGE:

Q. General, did you happen to hear who the soldier was who was in company with Newton when Tate struck him over the head?—

A. Yes, sir; I knew. Askew, I think.

Q. Lipscomb?—A. Lipscomb; yes, sir.

Q. The testimony indicates that he ran away very quickly?—
A. Yes, sir; as I recollect it.

Q. Tate testified that he turned around, and this man who was with Newton had disappeared. Did you happen to hear anything in any of your talks with any of the men there in regard to their feeling toward Lipscomb for abandoning Newton so quickly?—A. No, sir.

By the CHAIRMAN:

Q. General, speaking of the shells that Captain Macklin covered with his foot, were those afterwards obtained and put with the others here as a part of the exhibit?—A. I don't know, sir.

Q. I understood you that the probable motive of Captain Macklin, as explained to you by Major Penrose, was to cover them for the time being?—A. That was the impression I got, that there was great excitement among the people against the garrison, and the feeling was tense, and they were there, and in order not to exploit it or call it to their attention, he just covered the shells up, some of them.

Q. But he reported that to Major Penrose?—A. Yes, sir.

Q. So you did not assume that there was any idea on Captain Macklin's part of secreting those things?—A. No, sir. I understood it just in the way I have stated, that the feeling was very high, and they had already seen some of the shells, and if they saw more of them it would exaggerate the feeling.

(At 1 o'clock and 6 minutes p. m. the committee took a recess until 2 o'clock and 15 minutes p. m.)

AFTERNOON SESSION.

Tuesday, June 4, 1907.

The committee reassembled, pursuant to the taking of adjournment, at 2.15 o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Warner, and Pettus.

TESTIMONY OF YGNACIO GARZA.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. What is your age?—A. Thirty-three.

Q. What is your business?—A. I am a clerk for Mr. Francisco Yturria.

Q. What business is he engaged in?—A. He is a merchant and does a banking business.

Q. He has a general store and does a banking business also?—
A. Yes, sir; and banking business.

Q. How long have you lived in Brownsville?—A. About thirteen years.

Q. You are of Spanish descent?—A. I am of Mexican descent—Mexican.

Q. Your mother and father were Mexicans?—A. Yes, sir.

Q. You are a citizen of the United States?—A. No, sir; I am a Mexican citizen.

Q. A Mexican citizen? Now, you were in Brownsville the night of August 13 of last year, the night of the shooting up of the town?—
A. Yes, sir; I was in Brownsville.

Q. Where were you that night?—A. At my house, sleeping.

Q. Where is your house located?—A. My house is located on Fourteenth street, between Washington and Elizabeth streets, right on the corner of the alley, the alley between those two streets.

Q. On Fourteenth street?—A. Yes, sir.

Q. Between Elizabeth and Washington streets?—A. And Washington street.

Q. Where were you with reference to the Cowen house, then?—
A. I am right in front of Cowen's.

Q. Right across from Cowen's?—A. He lives right through the alley.

Q. I will ask you to look at this map, Mr. Garza. This represents the post of Fort Brown, this space here [indicating], and this is Elizabeth street, and this is Washington street, and this is Fourteenth street. Here is the Cowen house, and this house not marked is yours, right around the corner of the alley there [indicating]?—
A. Yes, sir; that is the one.

Q. Are you a married man?—A. Yes, sir.

Q. And you were at home that night?—A. Yes, sir; I was at home.

Q. What was the first you heard of the shooting, Mr. Garza?—
A. I heard some shooting; I was asleep and I was awakened by some shots.

Q. In what direction was that shooting?—A. In my opinion they were in the direction of the garrison.

Q. The garrison?—A. The garrison—the post.

Q. You say you are positive?—A. Well, yes, sir; I am positive.

(The stenographer here read the last two questions and answers.)

By Senator WARNER:

Q. I misunderstood you; I thought you said you were positive. Then how did the firing move—the shooting? Did it come uptown where you were?—A. Yes, sir; it came by the alley. I heard the shooting by the alley where I live.

Q. What was the character of that shooting, Mr. Garza? Was it of high-power guns, such as the army guns?—A. Yes, sir; it seemed to me it was. It was of high-power rifles.

Q. Was the shooting near your house at any time?—A. Yes, sir; it was.

Q. Where was the shooting that was near your house? What place was it with reference to the alley and Fourteenth street?—

A. Well, about up in front of Mr. Cowen's house.

Q. What is that?—A. Cowen's.

Q. In front of Cowen's?—A. Of Cowen's.

Q. And that is right across the alley from you?—A. Through the alley; yes, sir.

Q. How many shots do you think were fired there, Mr. Garza?—A. Right in front, there?

Q. Yes.—A. About thirty; thirty or forty, more or less. I did not count them, you know, but I believe it was about thirty or forty.

Q. Were those of the heavy reports, of the army guns?—A. Yes, sir; heavy reports. They were heavy reports.

Q. Did you see any person who did the shooting?—A. If I saw any?

Q. Yes.—A. No, sir.

Q. You saw no one?—A. No, sir.

Q. Your wife was with you, and your children?—A. Yes, sir.

Q. What was the condition there; were they very much frightened?—A. Yes, sir; we were frightened, all of us.

Q. Did you hear the working of the guns?—A. Yes, sir; I did.

Q. You heard the magazines?—A. Right in front of the alley, there, in front of my house; yes, sir.

Q. The alley would be right near your house?—A. Yes, sir.

Q. Taking this army gun and withdrawing the bolt, that way [indicating]—A. Yes, sir.

Q. You heard that plainly, did you?—A. Yes, sir; I heard it, and my wife also.

Q. Your wife is not here. She is not able to come, is she?—A. No, sir; she is not here.

Q. Were there any bullets that entered your house?—A. One entered my house in the dining room and struck the leg of a chair and went into a sideboard. Another struck the brick foundation of the north side of the house; didn't go into the house at all. It just struck the brick foundation.

Q. Did you get that bullet that went through your house and through the chair into the sideboard?—A. You know, my boys took hold of the bullet, the pieces, and threw it away, and I got some of them.

Q. That bullet was broken to pieces?—A. Yes, sir; it was broken. your attention to it?—A. Well, no, sir.

Q. your attention to it.—A. Well, no, sir.

Q. And the other struck the foundation?—A. The foundation—

Q. Of the house?—A. Yes, sir.

Q. Did you find that bullet?—A. I found the pieces around the floor.

Q. The one that struck the foundation of the house?—A. No, sir; I didn't find that.

Q. You didn't find that?—A. No, sir.

Q. How far is your house from the fort?—A. It is about 200 feet, more or less; I have not measured it, you know. That is only an estimate.

Q. Yes, I understand. How many houses are between your house and the porch?—A. On my side?

Q. Yes.—A. On the side of my house?

Q. Yes.—A. The Yturria's.

Q. Yturria's house?—A. Yes, sir.

Q. That is the house next to the garrison?—A. Yes, sir; that is the one.

Q. And the shooting that you heard came down that alley—the parties doing the shooting?—A. Yes, sir; came down that alley, and was advancing that way.

Q. About how many shots did you hear, altogether, that night?—A. I believe there were 150, more or less; 150, or 200, maybe.

Q. How long did the shooting last?—A. In my opinion it was about eight or ten minutes.

Q. You did not take special note?—A. No, sir; I didn't take special note.

Q. Did you go out of the house that night?—A. No, sir; I did not.

Q. Why not, Mr. Garza?—A. Well, I was there with my family and had to take care of them.

Q. Now, Mr. Garza, after the shooting stopped, did you hear parties running past your house back to the fort?—A. After the shooting?

Q. Yes.—A. Yes, sir; I heard some one running through the alley.

Q. How many?—A. Well, I could not tell you how many, you know. I just heard some one running there, maybe two or three or four; I could not tell you.

Q. You could not tell the exact number?—A. No, sir.

Q. But you heard parties running?—A. Yes, sir; in the direction of the post.

Q. In the direction of the post?—A. Yes, sir; by the alley.

Q. That is the alley between Washington and Elizabeth streets?—A. Yes, sir.

Q. It is what we call here, sometimes, the Cowen alley?—A. Yes, sir.

By Senator PETTUS:

Q. At what gait were they going towards the post?

Senator WARNER. At what speed?

The WITNESS. What?

Senator WARNER. How fast?

The WITNESS. Quick; they were fast. I could not tell you exactly.

By Senator PETTUS:

Q. Running?—A. When they were coming back; yes, sir; they were running.

Q. Running back towards the post?—A. Yes, sir; they were running.

By Senator WARNER:

Q. Did you look at the Yturria house the next day?—A. Yes, sir; I did.

Q. Did you notice any marks of bullet holes in that house?—A. Yes, sir; I noticed them.

Q. Now just state, Mr. Garza, as near as you can, what you saw there, the bullet holes and marks, and where they were.—A. Well, I noticed a bullet hole in the kitchen and through the dining room. The one that went through the kitchen stopped in the top of the well. I took that bullet out myself, out there.

Q. What did you do with that bullet?—A. I brought it to the office, and afterwards, when Mr. Blockson was there, I gave it to him.

Q. Mr. Blockson?—A. Yes, sir.

Q. Was that a steel-jacketed bullet?—A. Yes, sir; it was a big bullet; yes, sir.

Q. Did you notice with anybody the direction in which either of those bullets came? Did you sight through?—A. Yes, sir; it came from the barracks, from B barracks.

Q. On our map, Mr. Garza, D barracks is next to the river, to the right as you go into the reservation, and B barracks is the one to the left as you go in.—A. Yes, sir.

Q. Who was with you at any time time when you went through there?—A. The first time was Teofilo Martinez, and the next time was Major Blockson.

Q. The next time was Major Blockson?—A. Major Blockson.

Q. Did you notice a bullet mark in the windmill or the cistern?—A. Yes, sir; I did. I did not take the direction of that.

Q. You did not take the direction of it?—A. No, sir.

Q. How high was that from the ground?—A. The one in the cistern?

Q. Yes; in the cistern.—A. The one in the cistern must have been about 12 or 14 feet from the ground.

Q. Now, Mr. Garza, do you know whether or not there is a fence along here [indicating]? We call that south, to the right.—A. Yes, sir.

Q. And this is the south side of the Yturria property. Do you know whether there is a fence along there?—A. Yes, sir; there is a fence along there.

Q. What sort of a fence is it?—A. A lumber fence.

Q. A closed board fence?—A. Yes, sir; closed 1 by 12 boards.

Q. About how high is that fence?—A: About 6 or 7 feet high.

Q. Could a person standing in Garrison road have fired those shots in the direction in which they went?—A. No, sir.

Q. Did you ever have any trouble of any kind with the colored soldiers there?—A. No, sir; never.

Q. You had no prejudice against them?—A. No, sir.

Q. None whatever?—A. None; no, sir.

Q. You are still clerking in the store?—A. Yes, sir; I am still there.

By Senator FORAKER:

Q. What is on the corner opposite your house, the corner of Fourteenth street and this Cowan alley?—A. On the corner opposite my house?

Senator WARNER. Right across Fourteenth street.

(The corner in question was here pointed out on the map by Senator Scott.)

The WITNESS. There is a small frame house there.

By Senator FORAKER:

Q. There is a small frame house there?—A. Right in front of—

Q. Your house fronts on Fourteenth street, does it not?—A. Yes, sir.

Q. And the alley?—A. Yes, sir.

Q. Now, what I want to know is what is on the corner nearly opposite here [indicating]?—A. There is a little frame house.

Q. A little frame house?—A. Yes, sir.

Q. Who lived there?—A. A Mexican woman.

Q. Some Mexican women?—A. A woman.

Q. How near is that house to the corner?—A. Right at the corner.

Q. It fronts right on Fourteenth street and runs along the alley?—A. No, sir; it runs along Fourteenth street.

Q. It faces you exactly?—A. Yes; it faces me exactly.

Q. And how far does it extend along the alley?—A. How far what?

Senator SCOTT. How far does it go back [indicating].

By Senator FORAKER:

Q. How far does the house go back?—A. It is 14 or 16 feet wide.

Q. Fourteen or 16 feet?—A. Yes, sir.

Q. Is it not wider than that? I mean lengthways. I mean this way [indicating]. How deep is your house?—A. It must be about 20 feet.

Q. Only 20?—A. Yes, sir.

Q. How high is your house?—A. I don't know exactly; but it must be about 18 feet—14 or 16.

Q. It is one story or two stories?—A. One story.

Q. Yours is one story and theirs is one?—A. One.

Q. And is theirs about the same size as your house?—A. No, sir.

Q. It is smaller?—A. Yes, sir; it is smaller.

Q. And you think it is only 16 or 18 feet deep?—A. Yes, sir; maybe less than that; maybe 12 feet.

Q. Is it not as deep as this room is wide [indicating]?—A. No, sir.

Q. Not as deep?—A. No, sir.

Q. A very small house then?—A. Yes, sir; very small.

Q. What is between you and the Yturria house? Any other house in there [indicating on map]?—A. There is, I don't know what you call it—a chicken—

Q. A chicken house?—A. Yes, sir; a chicken house.

Q. When you heard the firing you put your wife and children on the floor?—A. Yes, sir; on the floor.

Q. And then you went to the window?—A. After they stopped the first time.

Q. After they stopped the first time?—A. Yes, sir; I went to the window by the yard.

Q. Where was that first firing?—A. By the garrison.

Q. Right by the garrison?—A. I first heard it.

Q. And the next firing you heard was up near your house?—A. Well, they were firing—advanced firing.

Q. You looked out of the window?—A. Yes, sir.

Q. Have you got a window here [indicating], looking out on the alley?—A. Yes, sir.

Q. That is the window that you looked out of?—A. No, sir; I went on the other side.

Q. Then you looked out on Fourteenth street?—A. No, sir. Shall I show it to you?

Q. Yes; I wish you would.—A. It has two windows here, and two windows on this side, and three or four on this side [indicating].

Q. Three or four on Fourteenth street? There are three or four windows looking out of your house on to Fourteenth street?—A. Yes, sir.

Q. And you were looking out towards Washington street?—A. Yes, sir.

Q. And you were looking out towards the alley [indicating on map]?—A. Yes, sir.

Q. And across to the Cowen house?—A. Yes, sir.

Q. And the window you went and looked out of was towards Washington street?—A. Yes, sir; I looked out through the window in this direction [indicating].

Q. You looked towards Washington street and all around, as far as you could?—A. Yes, sir.

Q. And you did not see anybody shooting at all?—A. No, sir.

Q. But you heard the firing in the alley?—A. When I looked out they were not firing.

Q. Did you look out the window towards the alley at any time?—A. No, sir.

Q. Did anybody stop and fire near your house?—A. Yes, sir; I heard some one shooting there.

Q. About how many shots?—A. About thirty or forty shots fired there.

Q. About thirty or forty shots fired there?—A. Yes, sir.

Q. Which way were they firing?—A. It seemed like they were firing to the Cowen house.

Q. To the Cowen house?—A. Yes, sir.

Q. Did you not go across the next morning and examine the Cowen house?—A. No, sir; I never have been there.

Q. You have never been there?—A. No, sir.

Q. You went to the Yturria house?—A. Yes, sir.

Q. Then why did you not go and look at the Cowen house?—A. I have been invited several times, but I never went there.

Q. Was not that an exciting time, the next morning?—A. Yes, sir.

Q. And you wanted to see what damage had been done?—A. Yes, sir.

Q. And you went and examined the Yturria house?—A. Yes, sir; I work for Mr. Yturria.

Q. And then did you not go and look at the Cowen house?—A. No, sir.

Q. Was it not shot up worse than any other house?—A. Yes, sir.

Q. And yet you did not go and look at it?—A. No, sir.

Q. You did not go and look into it at all?—A. No, sir.

Q. You can not tell us anything about the shots in that house?—A. No, sir.

Q. Did you ever go in front of it on Fourteenth street and see about the shots there?—A. No, sir.

Q. There is a tree where I am pointing, at the corner of the Cowen house and the alley [indicating on map]?—A. Yes, sir.

Q. How large a tree is that?—A. A good large tree.

Q. A good-sized tree; and in the summer time full of leaves?—A. Yes, sir.

Q. Can you tell us what kind of a tree it is?—A. They call it "fresno." I do not know what you call it in English.

Q. Now, after you pass this house, at the corner of Fourteenth street and the alley, what comes next as you go up on this same side?—A. On this same side [indicating]?

Q. Yes.—A. The Miller Hotel is on this side.

Q. No; here is the Miller Hotel [indicating].—A. Here is where Armstrong lives.

Q. Next after you pass the corner, what house is there?—A. Bezin's.

Q. That comes next?—A. Yes, sir.

Q. And then Armstrong's?—A. Yes, sir; and then Jagou.

Q. And then Jagou?—A. Yes, sir; and then Bolack.

Q. Then Bolack's store?—A. Yes, sir.

Q. That takes you clear to the corner of Thirteenth street?—

A. Yes, sir.

Q. That is all built up, clear to the corner?—A. Yes, sir.

Q. And on the opposite side—on the side where the Miller Hotel is—what is there, beginning at Fourteenth street?—A. Mrs. Leahy.

Q. This is her place [indicating on map]. What is there?—

A. The kitchen; you know—the wood yard.

Q. The wood yard runs out to the alley?—A. Yes, sir.

Q. But, the building, according to this map, stops short of the alley?—A. Yes, sir.

Q. Are there buildings all along there [indicating]?—A. Yes, sir. There is Doctor Thorn's.

Q. This is his place here, "No. 4?"—A. Yes, sir [indicating on map].

Q. Are there any street lamps in that alley at all?—A. No, sir.

Q. It is not lighted up in any way?—A. No, sir.

Q. There are no street lamps between Washington street and Elizabeth street on Fourteenth street, are there?—A. No, sir.

Q. Now, you did not try to go out into this alley at all?—A. No, sir.

Q. Do you remember what kind of a night that was?—A. It was a dark night.

Q. Very dark, was it not?—A. It was dark.

Q. Can you recall anything that makes you know that it was dark?—A. When I went to the window, you know, I saw it was dark. The night was dark.

Q. You could not see anybody anywhere, could you?—A. I didn't see anybody.

Q. You did not see anybody?—A. I didn't see anybody.

Q. From where you were looking out here from this end of your house, you were how far from Washington and Fourteenth streets? Here is Washington and Fourteenth streets, and here is your house [indicating]. How far is that rear end of your house?—A. From the corner here [indicating]?

Q. Yes.—A. It would be about 80 feet.

Q. Eighty feet?—A. Yes, sir.

Q. You have a good view out that way, have you not, from your window?—A. Yes, sir; of course there is another building right here [indicating], but there is a yard here, you know [indicating on map].

Q. How far is it from your house to the other house between you and Washington street?—A. Twenty-odd feet.

Q. Twenty-odd feet; so that you could look right through there [indicating]?—A. Yes, sir.

Q. You could see the corner of Washington and Fourteenth, that I am now pointing to, diagonally across from your house?—A. Yes, sir.

Q. Did you see anybody out there at all?—A. No, sir.

Q. And you were looking out there from time to time, during all the firing?

Senator WARNER. He has not said that he looked out more than once.

By Senator FORAKER:

Q. You looked out when?—A. After the first firing.

Q. After the first shots were all over?—A. Yes, sir.

Q. And that was after the bugle call?—A. No; the bugle call was after that.

Q. The bugle call was after you looked out.—A. Yes, sir.

Q. And you saw nobody at all?—A. No, sir.

Q. Do you know where those pieces of metal are that you say you recovered?—A. No, sir.

Q. You do not know where they are?—A. Major Blocksom got some of them.

Q. And the bullet you took out of the wall, can you tell use where that is?—A. He has got it also.

Q. Would you know that if you saw it again? Can you recognize it?—A. I guess I can.

Q. These bullets seem not to be at hand just at present, but I will have them shortly. In the meanwhile I will ask you about something else. You went over to the Yturria house and you looked along the lines that the bullets had made?—A. Yes, sir.

Q. And that carried you to the rear porch of B barracks?—A. B barracks; yes, sir.

Q. What did you look through, a hole?—A. No, sir; I just took the line where the bullet would strike.

Q. Where the bullet would strike?—A. Yes, sir.

Q. What was it you saw that that bullet had struck? What was it, what part of the house?—A. The south side of the house.

Q. That is the side towards the barracks?—A. Yes, sir.

Q. But what part of the house? Did it strike the chimney, or the door, or the roof, or what part?—A. No, sir; it struck the wall.

Q. About where on the wall?—A. Shall I show you?

Q. Yes.—A. About here [indicating on map].

Q. How high up?—A. High up. About 8 feet.

Q. About 8 feet from the ground?—A. Yes, sir.

Q. Somebody testified that it was 9½ feet from the ground?—A. I have not measured it, you know.

Q. You did not measure it?—A. No, sir.

Q. That is what I wanted to get at.—A. No, sir.

Q. How many of those bullet holes did you examine?—A. Two of them.

Q. And you sighted along the hole?—A. Yes, sir.

Q. Did you sight from inside of the house?—A. No, sir; I sighted from the railing.

Q. You got up on the railing and looked along in the line that the bullet made?—A. Yes, sir.

Q. That was a hole through a piece of wood, or was it just a groove?—A. A groove and a hole both, and I sighted the best I could.

Q. And you sighted the best you could?—A. Yes, sir.

Q. Were not the groove and the hole both full of wood that was furred up, so that you could not see through them?—A. I did not understand you.

Q. Did not the bullet leave the wood, in the hole that the bullet made, furred up—that is, rough?—A. Yes, sir; it was rough.

Q. Was not that the fact, that it practically closed the bullet hole up so that you could not look through it?—A. I did not look through the hole, you know; I just sighted by it.

Q. You could not see through the hole, could you?—A. Yes, sir.

Q. You could see through the hole?—A. Yes, sir; in the door you can see through the hole; and on the wall you can see the hole from one side to the other.

Q. That is just where it makes a groove, is it not?—A. Yes, sir.

Q. But where it makes a hole, you can not see through the hole?—A. No, sir.

Q. So that when you undertook to sight through the hole you found you could not look through it?—A. I did not look through the hole, you know. I just sighted from the outside of the hole, you know.

Q. You just saw where the hole was?—A. Yes, sir.

Q. Where it had gone in?—A. Yes, sir.

Q. And then you judged it as nearly as you could?—A. Yes, sir.

Q. You could not see through at all, could you?—A. No, sir.

Q. Then, when you looked through at the other place, the groove was under the lintel, was it not?—A. Yes, sir.

Q. Was not that also rough, from the wood standing out after the bullet passed?—A. Yes, sir.

Q. That was rough too, was it not?—A. Yes, sir.

Q. That is all. You did not see anybody firing?—A. No, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. You went to the window. You only stopped at the window a short time when you went to the window to look out?—A. Just for a second or so.

Q. And that was when there was no firing going on?—A. Yes, sir.

Q. Now, those buildings in the alley that you have spoken of, between Thirteenth and Fourteenth streets, on the east side, how near do they go back to the alley?—A. The buildings?

Q. Yes.—A. The buildings along the alley, you say?

Q. Yes; how far are they from the alley? They front on Washington street, do they?—A. Yes, sir; the front would be on Washington street. One, right from the corner of Washington street, there is no building at all [indicating on map]. The other is the Pesina building.

Q. How many feet are there between the rear of that building and the alley?—A. From the rear of the building?

Q. Yes.—A. It must be about 80 feet.

Q. Eighty feet?—A. Eighty, from the alley to the house.

Senator FORAKER. Either I misunderstand you, Senator Warner, or the witness. You say from the rear to the alley. The witness said it fronted on the alley.

By Senator WARNER:

Q. What is this building that you spoke of a moment ago?—A. The Bezin building.

Q. That building fronts on what?—A. On Washington street.

Q. And runs back towards the alley?—A. The building does not run to the alley, but the yard does.

Q. And the rear of the Pesina building is how many feet from the alley?—A. Do you mean the front of the building?

Q. I mean the end of the building towards the alley, the rear?—A. It must be about 60 or 80 feet.

Q. Sixty or 80 feet. And the next building south of that?—A. South of that?

Q. Yes.—A. There is a building to the north; there is no building to the south, right in the corner of the street, you know.

Q. I mean south.—A. South, this way [indicating]?

Q. Yes.—A. Oh, yes; there is a building on the corner of the alley.

Q. Your building here, for instance, runs back to the alley; does it not?—A. Yes, sir.

Q. But these other buildings here do not. How far are they from the alley? How far are the rears of the other buildings from the alley that is between Thirteenth and Fourteenth streets?—A. About 80 feet; all of them about the same.

Q. Eighty feet?—A. Yes, sir.

Q. Did you see any bullets picked up at all? I did not ask you that on the direct examination.—A. No, sir.

Q. You did not notice if you did?—A. I did not notice.

Q. Now, Mr. Garza, in your own way, so that we may have no misunderstanding about it, take that pointer and commence at Thirteenth and Washington streets and just point out the buildings until you get to Fourteenth street, and state whose they are and what they are and how near they come back to the alley. Begin at Thirteenth and Washington streets.—A. This is Bolack's.

Q. Bolack's is the first building?—A. His building is about here; but the yard, the garden, runs about here [indicating].

By the CHAIRMAN:

Q. That is an empty lot on Washington street?—A. Yes, sir; a garden. And about here is Jagou's.

By Senator WARNER:

Q. Tell us how far that runs back, how near to the alley.—A. Jagou's is here; it begins here and runs along Washington street, and there is another big frame building here. I did not say that before. I mentioned it. Jagou's is right in front here [indicating on map]. There are yards, of course, between them.

Q. Does that go back to the alley, the next building?—A. Yes, sir. The next building begins at Washington street, and there is a stable in the middle of the block, fronting on the alley [indicating].

Q. Then what is the next building?—A. Pesina's begins here, and the yard runs to the alley [indicating].

By Senator LODGE:

Q. There is no building on that?—A. No building right here [indicating].

By Senator WARNER:

Q. That is at the corner of Fourteenth and Washington streets?—

A. There is no building here, on Washington or Fourteenth streets.

Q. There is no building there?—A. No, sir.

By the CHAIRMAN:

Q. Is there any fence?—A. Yes, sir.

Q. What kind of a fence?—A. Common lumber.

Q. Is it a high or a low fence?—A. No, sir; a very low fence.

By Senator FORAKER:

Q. Palings?—A. Yes, sir.

Q. Now, I do not care anything about what is on Washington street. I want to know what is on that alley. I will have to go over it again. Right opposite your house is the house where the Mexican woman lives?—A. Yes, sir.

Q. That is a house one story high and fronts on Fourteenth street and extends along the alley, the edge of it, 15 or 16 feet in depth?—A. Yes, sir.

Q. Next to that comes what?—A. Pesina's.

Q. What is in front of his lot fronting on the alley?—A. No building there; that is a fence [indicating].

Q. His house fronts on Washington street?—A. Yes, sir.

Q. And runs back how deep?—A. The building?

Q. Yes.—A. To about 80 feet from the alley. The kitchen is a little way here [indicating]; about here is the kitchen, and here is the back of the lot [indicating].

Q. Then there is a vacant lot back to the alley?—A. Yes, sir.

Q. Is there a fence there, back at the alley?—A. Yes, sir.

Q. That is the second place, and then comes Armstrong's?—A. Yes, sir.

Q. And then we have on the alley, next, what?—A. A stable.

Q. Bezin's has no stable?—A. No, sir.

Q. Nothing fronting on the alley?—A. No, sir.

Q. But Armstrong's has?—A. Yes, sir.

Q. Next is Jagou's?—A. Yes, sir.

Q. He fronts on Washington street and extends back to the alley?—A. Yes, sir.

Q. The next is Bolack's?—A. Yes, sir.

Q. With the building on the alley. He extends up to Fourteenth street?—A. Yes, sir.

Q. And the opposite side of the alley is as you have described it a while ago?—A. Yes, sir.

Q. I asked you if you would know that bullet that you took out of the well at the Yturria house if you saw it again?—A. I do not know whether I would or not.

Q. There it is, as I am told [handing bullet to witness].—A. (After examination.) That looks like it.

Q. About how high up from the ground was that?—A. About 4 or 5 feet.

Q. In what relation to the woodwork of the well was that, when you found it sticking in the wood?—A. It came in this way from the alley, and it was this way [indicating]; it just entered that way [indicating with bullet].

Q. It was standing right straight out?—A. Yes, sir.

Q. As though it were coming in the way I am holding it now, in a vertical position [indicating]?—A. Yes, sir.

Q. That is the way it stood in the woodwork?—A. Yes, sir.

Q. Sticking up?—A. Yes, sir.

Q. You see what a peculiar dent there is in the nose of it?—A. Yes, sir; a nail struck it.

Q. Did you see what did that?—A. It was a nail; yes, sir.

Q. That nail was right where you found the bullet?—A. Yes, sir.

Q. Was the nail—A. Right under the bullet.

Q. And this bullet was tilted up over the nail?—A. Yes, sir.

Q. How was the nail—driven in?—A. It struck the nail this way [indicating with bullet] and went through the lumber, through the board, and there was about this much of the bullet outside [indicating].

Q. Was this nail in the well?—A. Yes, sir.

Q. So that you saw the end of the bullet sticking out of the wood of the well?—A. Yes, sir.

Q. What kind of a piece of wood was it in?—A. About an inch thick.

Q. Was the nose of the bullet sticking straight downwards towards the earth?—A. Yes, sir.

Q. Straight downwards towards the earth [indicating]?—A. Yes, sir.

Q. So far as its position was concerned when you found it, it might have been fired straight downwards, might it not?—A. Yes, sir.

Q. It was going in that direction?—A. Yes, sir; apparently.

Q. Did you sight from that hole to find out where it came from?—A. Yes, sir.

Q. Where did you conclude that it came from?—A. From the barracks.

Q. You thought that it came from the barracks?—A. Yes, sir.

Q. You found this in the woodwork of the well?—A. Yes, sir.

Q. Could it not have been shot from the outside?—A. No, sir; you could see the hole in the door of the kitchen.

Q. You found it in the frame of the woodwork of the well?—A. Yes, sir.

Q. In a vertical position?—A. Yes, sir.

Q. And it had come through two walls of the house?—A. Yes, sir.

Q. And the door?—A. Yes, sir.

Q. And a picture?—A. No, sir; that was another bullet.

Q. And you concluded that it had come from B barracks?—A. Yes, sir.

Q. Now, did you sight from the well?—A. I just sighted the hole there, you know.

Q. You just noted how the holes were?—A. Yes, sir.

(Witness excused.)

TESTIMONY OF MRS. HELEN MOORE.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. What is your full name?—A. Mrs. Helen Moore, Senator.

Q. What is your age?—A. Forty-three.

Q. Your home is in Brownsville?—A. Yes, sir; my home is in Brownsville.

Q. How long have you lived there?—A. A year and a half; a year last October; about a year and seven months, now. A year last October I went to Brownsville.

Q. What business have you been engaged in?—A. The hotel business.

Q. What is the name of your hotel?—A. The Miller.

Q. Where is that located?—A. Right on the corner of Thirteenth and Elizabeth streets.

Q. Were you conducting that hotel on the 13th of August last year, at the time of the shooting up of Brownsville?—A. Yes, sir.

Q. Where were you on the night of that shooting?—A. I was in my room; at 12 o'clock at night.

Q. Had you gone to bed?—A. Yes, sir.

Q. Were you asleep when the shooting commenced?—A. Yes, sir; the first shot woke us.

Q. What part of your house were you sleeping, Mrs. Moore?—A. The room right on the corner of the alley; our room was right along the side of the alley; the windows were right out on the alley and towards the post; one on the alley and one towards the post.

By Senator LODGE:

Q. This is the Miller Hotel, Mrs. Moore, as indicated on this map; this is the alley, and here is Thirteenth street, and your room was in that corner?—A. Right in that corner, there, over my kitchen; yes, sir; that is my room, there.

Q. In the corner of the building on the alley, and fronting the barracks?—A. Yes, sir; that is my room; and there was one window this way [indicating]: one window right here and one right there [indicating].

Q. And one on the alley?—A. Yes, sir.

By Senator WARNER:

Q. That is, the second story?—A. Yes, sir; the second story.

Q. When you heard this shooting in what direction was it?—A. From the barracks.

Q. What was the character of that shooting, Mrs. Moore?—A. It was a quick, sharp shot.

Q. Have you been accustomed to hearing army rifles?—A. No, sir; I never heard one before in my life.

Q. Have you any knowledge of the reports of guns?—A. Yes, sir; This was a sound that I had never heard before. I shoot a gun myself.

Q. The fact is that you go hunting with your husband?—A. Yes, sir; I go hunting with him all the time, and I use a gun all the time, but I never heard a gun like this before.

Q. This shooting that you first heard was, as you thought, up near the fort?—A. Yes, sir; it was at the fort.

Q. And then which way did it go?—A. It came right straight down towards my house.

Q. In the alley?—A. The alley.

Q. Just describe that shooting in your own way, the character of the shooting.—A. The first two or three shots we heard, my husband thought it was fire, and we jumped up as quick as we could and looked out of the window—this window that faces the post—and he says, "It is fire," and I says, "No; it is not. It is on account of the Evans trouble." Just the night before they had pulled her off of her horse, and I said, "No; it is on account of the Evans trouble, and it is the soldiers," and he says, "No; it is only in the post, and it is a fire in the post." So we stood there and watched out of that window until they fired another volley right at the corner of the alley and Fourteenth street, and we could see the flashes of the guns, one right after another, until they started and came right down the alley towards the hotel, and they were shooting as they came, and then we dropped right down below the window, and crawled into our hallway, and sat there until the shooting ceased; and then Mr. Goldsmith, the young man boarding with us, hollered to us not to put our heads out of our window, that it was the soldiers shooting up the town.

Q. Were you much frightened?—A. Oh, yes, sir; I was frightened to death, Senator. I was as nervous as I could be.

Q. Did you at any time hear any remarks made, Mrs. Moore, by parties out there?—A. Remarks of the soldiers?

Q. Yes.—A. I heard them as they passed; I heard some one out there say, "Shoot him, the son of a b——. There he goes; get him." This was just as they passed by in the alley and turned into Thirteenth street. A number of them went down Thirteenth street and part of them went right straight down the alley. That is when they shot at our house.

Q. By "straight down the alley" you mean in the direction of Twelfth street?—A. No; right straight on down the alley; straight on down this way, down the alley [indicating].

Q. Towards Twelfth street?—A. Towards town; yes, sir.

Q. Did you hear the noise that the guns made out there?—A. Yes, sir; I heard it when it struck our house and made the remark to my husband then, "They have struck the house."

Q. But did you hear the guns when they were shooting—as though they were loading and unloading the guns?—A. It seemed like they were pulling it back, like a pump gun.

Q. Like a pump gun?—A. Yes, sir; we can pull a pump gun back, and this was the same, only louder.

Q. Like this [working bolt of Springfield rifle]?—A. Yes, sir; that is it. That is the crack.

Q. That is, a noise like pulling the magazine?—A. Yes, sir; that is it exactly. I never saw an army gun and don't know anything about the workings of them at all, but that is the way it sounded.

Q. You say you were very much excited?—A. Yes, sir; very much excited. I never have gotten over it.

Q. Mrs. Moore, you spoke of the Evans incident; that is, the alleged assault on Mrs. Evans?—A. Yes, sir; I spoke of it. I says,

"Oh, no, it isn't fire; it must be on account of the trouble with Mrs. Evans."

Q. And then you told him that it was the niggers shooting up the town?—A. Yes, sir.

Q. Now, Mrs. Moore, after this shooting of the 13th, what effect did that have upon your people—that is, upon the women of the town, as to being out upon the streets, and feeling safe? What was the effect in that respect?—A. Oh, it was awful, Senator. There wasn't any ladies would go out on the streets until those niggers left there.

Q. Why?—A. Because they were frightened to death; they were afraid to go out on the streets, on account of the niggers. They had all the power on earth over us.

Q. Was there ever, so far as you heard, among the people of Brownsville that night or afterwards, any question but what it was the colored men who did the shooting up of the town?—A. I never heard anyone make any other assertion but what they were satisfied it was the negroes that done the shooting.

Q. You had no trouble with the colored soldiers?—A. I never had in my life; no, sir.

Q. How long did that shooting continue, Mrs. Moore?—A. Oh, I guess it couldn't have been over twenty minutes—twenty or twenty-five minutes; something like that. It wasn't long.

Q. Was your house shot into?—A. Yes, sir.

Q. Of course you would not pretend to tell the length of time it was. You were considerably excited?—A. Yes, sir; I couldn't say that.

Q. About how many shots would you say there were?—A. That went into our house?

Q. Altogether, there?—A. Oh, I couldn't begin to tell. There must have been a hundred shots. I don't know how many there were. I couldn't say that.

Q. How many shots were there in your house?—A. There was one went through from the alley, through one room, through the ceiling, and into a washstand on the third floor. We got that bullet out and gave it to Mayor Combe. Another went into room No. 41, on the corner, the first window from the corner on Thirteenth street, through the ceiling, and through a door, and lodged.

Q. Who occupied that room?—A. On the third floor?

Q. Yes.—A. No one was in that room at that time. That was No. 41. The room that the people were in that was shot through was under that.

Q. Who occupied that room?—A. Mr. and Mrs. Oden.

Q. Mr. Hale Odin. O-d-i-n?—A. O-d-e-n.

Q. He lives at San Antonio?—A. Yes, sir; he went from Brownsville to San Antonio.

Q. Yes. How many bullet holes were there, altogether, made in your house that night?—A. Five.

Q. And where were they, do you say?—A. Two in the rooms and two on the side and one in the corner.

Q. You did not go out of the house, or your husband, that night?—A. No, sir; neither one of us.

Q. You think you can not be mistaken as to hearing the noise that these guns made; that is, the pumping?—A. No, sir; I am not mistaken there at all.

Q. Did you know anything of the wounding of the lieutenant of police until the next morning?—A. Not until the next morning.

Senator WARNER. That is all.

By Senator FORAKER:

Q. You did not see anybody at all, as I understand you, Mrs. Moore?—A. No, sir.

Q. You heard the firing?—A. I saw the fire from the guns.

Q. You saw the flashes of some of the guns when they were fired down in the neighborhood of Mr. Cowen's house?—A. Yes, sir; right at Mr. Cowen's house.

Q. And then you and your husband took to cover?—A. We got back.

Q. You got back—A. No, sir; we stood at the window and watched them firing until they started down the alley.

Q. Until they started towards you?—A. Yes, sir; and they were shooting as fast as they could, and when they started towards us we got away from the window.

Q. All you could see was the flashes of the guns?—A. Yes, sir; the flash of the guns and the sound of the guns.

Q. And you heard one of them make that remark you have mentioned, which I do not care to repeat?—A. Yes, sir.

Q. But you could not tell what kind of a voice that was, as I understand?—A. I didn't say that, because under the excitement—

Q. It would have been hard for anybody to tell?—A. Yes, sir.

Q. You testified before Mr. Purdy, did you not?—A. Yes, sir.

Q. And you said in your testimony you gave him that you could not tell anything about the voice?—A. Yes, sir.

Q. That you just heard those words?—A. That I just heard those words.

Q. That is all you can say now?—A. Yes, sir.

Q. You and your husband got down under the window, and then crawled out into the hall?—A. Yes, sir.

Q. So that you had two walls between you and the alley?—A. Yes, sir. No; not two walls between us and the alley, because there was a window right into the alley from the hall; but there were two walls between us and the barracks—a plank wall and a brick wall.

Q. Yes; but there would be two for your protection?—A. Yes, sir.

Q. That is the reason you got in there?—A. Yes, sir;

Q. That is all you know about it. One thing I would like to ask of you here: Do you remember how those rooms were occupied that night—on the third floor?—A. No, sir.

Q. As I understand it, you were on the second floor?—A. Yes, sir.

Q. You and your husband. And do you know who occupied those rooms?—A. Yes, sir; the Odens were on the second floor and Mr. Bodin and Mr. Chace were on the third floor, and that newspaper man—I can not think of his name now—

Q. Canada?—A. Yes; Mr. Canada; he was on the third floor.

Q. But what I want to get at here now is as to the third floor. There is a corner room, I suppose fronting on the alley and on Thirteenth street?—A. Yes, sir; that is the room that was unoccupied.

Q. That was unoccupied?—A. Yes, sir.

Q. About how large a room is that?—A. That is a room about 14 feet square, I guess; about that.

Q. How many windows are there in that room fronting on Thirteenth street?—A. One on Thirteenth street and one on the alley.

Q. One on Thirteenth street and one on the alley?—A. Yes, sir.

By Senator WARNER:

Q. Was not Mr. Hammond stopping at your house that night?—A. Yes, sir; Mr. Hammond was stopping at the house that night.

Q. He was on the third floor, too?—A. Yes, sir; he was rooming on the third floor.

By Senator FORAKER:

Q. Who was in the next room on the third floor going from the alley towards Elizabeth street?—A. Now, I want to understand that again.

Q. Here I have before me a picture, as I understand it, of the Miller Hotel, at the corner of Thirteenth street and the alley. Is this Bolack's [indicating on photograph]?—A. Yes, sir; that is Bolack's; this is the alley, and that is room No. 41.

Q. That is No. 41 that you are pointing to? You are pointing to the window next to the alley on the third floor?—A. No, sir; this is room No. 40 that faces Thirteenth street. This is Thirteenth street and this is the alley. There is a window behind this. This is No. 40 and this is No. 41 [indicating on photograph].

Q. Now, was No. 41 occupied?—A. No, sir; this corner room was not occupied.

Q. Was No. 41 occupied?—A. Yes, sir; Mr. Canada had that room.

Q. He had that, and what is the next room?—A. This, the next room to it, is No. 42, but I don't know who had those rooms.

Q. You do not know who was in that?—A. No, sir.

Q. And the next room would be No. 43?—A. Yes, sir; 43; and then 44; numbered right along.

Q. They were numbered from the alley going towards Elizabeth street?—A. Yes, sir.

Q. And was there more than one window for each room?—A. Not except that one, No. 40, and there were two windows in that room.

Q. The other windows there would seem to be much farther apart [indicating on photograph]?—A. There is a hall in there.

Q. That is to say, rooms 41 and 42 are separated by a hall?—A. No, sir; this window comes in the hall, and this is 41 [indicating on photograph].

Q. So that the window you pointed out to me as the window of 41 is the window to the hall?—A. That is the hall window.

Q. And it would be still farther towards Elizabeth street, at the third window, where we find room No. 41?—A. Yes; that is where the two bricks were shot out.

Q. Is the next window that of room No. 42?—A. Yes, sir; and then 43 and 44 and 45.

Q. Is there any other hall in there?—A. No, sir; except coming across the other way.

Senator FORAKER. That is all.

(The witness was excused and left the committee room, but was immediately recalled at the request of Senator Foraker).

By Senator FORAKER:

Q. There is one question that I forgot to ask you. You testified that you were satisfied that it was the negroes shooting up the town as soon as you heard the firing?—A. Yes, sir; I did.

Q. And you were satisfied of that because you thought they were shooting up the town because of the assault on Mrs. Evans?—A. No, sir; Senator, I did not say that. I said this, that the Evans trouble was the night before.

Q. Yes; just the night before.—A. Yes, sir; the night before. They had pulled her off of her horse, and I said they were shooting up the town. I didn't know they were shooting up the town or what they were doing. I merely said the shooting was on account of that trouble.

Q. That is what I wanted to get at. You had heard of this?—A. Yes, sir.

Q. This happened Monday night?—A. No, sir; the Evans matter happened Sunday night, and the shooting was right after.

Q. Yes. Now, Monday, during the day, you heard of the Evans matter, and you had heard that a soldier had pulled her off her horse?—A. Yes, sir.

Q. And there was a good deal of talk about that, was there not?—A. Yes, sir.

Q. And a good deal of angry feeling?—A. Yes, sir.

Q. You did not see any of the soldiers?—A. No, sir; I did not see any of the soldiers.

Q. When you speak of angry feelings, you refer to the citizens? They were angry on account of that matter, were they not?—A. Yes, sir; very much agitated over that trouble.

Q. Then, as soon as you heard the firing you said, "No; it is not a fire; it is the soldiers. No; it is shooting on account of that Evans matter."—A. The negroes, on account of the Evans matter.

Q. Did you think the negroes were shooting up the town because one of their number had pulled this woman off her horse, or did you think they were shooting up the soldiers on account of this matter?—A. No, sir; I thought that the reason of it was because of the Evans matter, because Mr. Evans had gone up to the post to speak about this matter, and to report it at the post in the morning, and I thought that the negroes were coming back there evidently that night.

Q. Had he gone there in the morning?—A. Yes, sir.

Q. Did you know of that?—A. Yes, sir.

Q. Did you know what the result was?—A. No, sir.

Q. Had you heard of that?—A. No, sir; I had not heard.

Q. And did you think because one of their number had pulled a lady off a horse, and the husband of the lady had made complaint to the commandant, that they would go out and shoot up the town? Now, Mrs. Moore, is not this the fact, that you knew the people had heard this story and were extremely angry and excited about it?—A. No; they were not extremely angry and excited about it, not the whole, I mean—I mean Mr. Evans.

Q. Was he very angry and excited?—A. Yes, sir; he was excited.

Q. He is a very quiet, gentlemanly sort of a man, isn't he?—A. Apparently he was.

Q. Did you talk with him that day at all?—A. No, sir; I did not.

Q. Did you hear him say anything?—A. No, sir.

Q. Did you ever see him in your life?—A. Mr. Evans—oh, I know him well.

Q. But you did not see him that day?—A. No, sir.

Q. I understood you to say just now that you did not see him?—A. No, sir; I did not see him.

Q. You did know him, but did not see him that day, and did not hear him make any excited remarks?—A. No, sir.

Q. But you heard other people talk about it, didn't you?—A. Yes, sir.

Q. Was it not talked about very commonly in your hotel?—A. No; not commonly in the hotel.

Q. Was not your husband talking about it that day, and in a very excited way?—A. No; I don't know that I heard my husband say a word about it at all, but I had heard it in the hotel.

Q. Whom did you hear speak about it?—A. I could not tell you that to save my life. There were people in and out of the hotel all of the time. It would be impossible to tell the name of the man or whoever it was that made the remarks about it.

Q. But your first thought was that the soldiers were shooting up the town?—A. My first thought was that the trouble was over that.

Q. Did you think the soldiers were doing the shooting?—A. Yes, sir.

Q. Shooting at the town, or did you think the town was doing the shooting at the soldiers?—A. No, sir; the soldiers were doing the shooting at the town. That is what I thought. That is the first thought I had, and that is the only thought I ever had.

Q. I want to know why you had that thought? Was it because you had heard that the soldiers had pulled this woman off the horse, and because you thought the commanding officer was punishing them in some way, or what?—A. Punishing who?

Q. The soldiers, because the story had come to him that they had done that.—A. He would not be punishing the soldiers if they were shooting up the town.

Q. No; but I asked you a while ago, if you thought those soldiers had gone out to shoot up the town because one of their number had pulled a lady off her horse, and you said, no; that your thought was that the soldiers were angry because Mr. Evans had gone and made complaint about it.—A. Senator, it was not only that one incident, but it was a good many others, all together.

Q. Let us not get away from this one first. I want to know just what it was that made you think the soldiers were shooting up the town?—A. My first thought was that it was on account of the trouble with Evans, and that is the remark that I made, and I still make it.

Q. And that was before you saw anybody or heard anything except the firing?—A. Yes, sir.

Q. The very first time out of the box?—A. The first thought that came to my mind. I thought that was the cause of the negroes shooting—that it was on account of that.

By Senator LODGE:

Q. You spoke about the women of Brownsville being alarmed after the shooting—being alarmed on account of the presence of the soldiers—and not being willing to go out of the house?—A. Yes, sir.

Q. Before the coming of the soldiers there, did the women and girls go freely about the town?—A. Oh, my, yes; in the night, or any time.

Q. There was no apprehension under ordinary conditions at all?—A. None in the world; no, sir.

By Senator SCOTT:

Q. If you thought it was on account of the Evans matter, would you not have thought it was the white people that were going in there and shooting the negroes up for having mistreated this woman, instead of the negroes coming out?—A. No, sir; it did not sound like our guns. If it had sounded like our guns, I might have thought that, but it did not sound like our guns, nor like pistols.

Q. But the Evans people were the ones that had the right to complain?—A. That is true enough; but if there had been anything like that agitated all the citizens of Brownsville would have known it and would all have gone up in a body; but nobody went. There was not a human citizen on the streets of Brownsville, only just those few that were on the police force.

Q. Then you thought, because the colored people had pulled this woman by the hair of her head that they were coming out from the fort to shoot up the balance of the town?

Senator WARNER. I submit that that is not what the lady said. It was in connection with the fact that Mr. Evans had gone up and complained also.

Senator LODGE. Done in revenge for that.

By Senator SCOTT:

Q. I only wanted to know. I did not understand.—A. Yes, sir; that was it.

By Senator FORAKER:

Q. Let us understand that. It was because the soldiers felt like revenging themselves on the people of the town generally, because the husband of the woman who had been pulled off the horse had complained about it.

Senator SCOTT. That is what I wanted to get at.

The WITNESS. No; you would not take it that way, either. You would naturally think, on the impulse of the moment, if anything of that kind happened, that it would be the cause of it, or something of the kind would be the cause of it.

By Senator FORAKER:

Q. Something growing out of it?—A. Something growing out of it.

Senator FORAKER. I think we understand.

TESTIMONY OF MISS WILLIE MAYFIELD.

Miss WILLIE MAYFIELD, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Please give your name in full.—A. Miss Willie Mayfield.

Q. Where do you live, Miss Mayfield?—A. In Brownsville, Tex.

Q. Are you the daughter of Mrs. Moore, who was just on the stand?—A. Yes, sir.

Q. Were you in Brownsville on the night of the shooting up of the town, the 13th of last August?—A. Yes, sir.

Q. Where were you then?—A. In my room at the Miller Hotel.

Q. On which floor of the hotel?—A. On the second floor.

Q. You mother and stepfather occupied rooms on the second floor, did they not?—A. Adjoining mine; yes, sir.

Q. Were you asleep at the time of this shooting?—A. Yes, sir.

Q. Awakened from sleep?—A. Yes, sir.

Q. Where was the first shooting you heard?—A. I think from the barracks, as well as I can tell. I think it was from the barracks.

Q. In that direction?—A. Yes, sir; in that direction.

Q. And then where did the shooting continue from? Did it approach down the alley towards your house?—A. Yes, sir.

Q. What was the report of those guns, do you know? Are you familiar enough to tell?—A. No, sir.

Q. You could not tell?—A. No.

Q. How much shooting was there? What was the number of shots?—A. Well, I could not tell. I did not stop to count the shots. I could not tell about how many there were, even. First there was only one shot from the barracks.

Q. And then what?—A. And after the one, then there was, oh, I guess, four or five.

Q. And then how?—A. And then the volley was fired which went into the Cowen house, and then after that they went running down the alley, behind the hotel, shooting as they went, and I could not really say how many.

Q. Behind what hotel?—A. Behind the Miller Hotel, down the alley.

Q. That is, the alley between Washington and Elizabeth streets?—A. And Elizabeth street; yes, sir.

Q. Where were you at the time of this shooting?—A. We were in the hall. After it begun, we got up out of our beds, of course, and went into the hall.

Q. And there is a window opening from that hall right into the alley?—A. Yes, sir; into the alley; also from mamma's room into the alley.

Q. It being warm weather, that window was open, of course, I suppose?—A. Everything was open.

Q. Now, during the time of this shooting there, did you hear any remarks made by anybody?—A. As the negroes were running down the alley, yes, sir; I heard them say, as they were going down the alley, "There he goes, down Elizabeth street; shoot him."

Q. What did they say—did they use vile words?—A. Yes, sir; they used profane language in talking.

Q. Did you hear that voice?—A. Oh, yes; I heard the voice.

Q. Did you form an opinion or have you formed an opinion as to that voice, whether it was the voice of a negro or not?—A. It certainly was.

Q. What made you think it was the voice of a negro?—A. Well, I could distinguish the voice very easily. They were right under the window, and you could tell the voice of a negro from another person.

Q. How long did that shooting continue, if you remember?—A. Oh, it was not so very long; just a few moments.

Q. Did you hear what they call the pumping of the guns, the clicking?—A. When they let the shells in or out, you mean?

Q. Yes; as they loaded and unloaded?—A. Yes, sir.

Q. Like this [illustrating with a Springfield rifle]?—A. Yes, sir.

Q. Starting to load—you could hear them?—A. Yes, sir; you could hear that.

Q. Do you know of the effect that this had on the people of Brownsville—that is, the women—afterwards, as long as the colored troops were there, as to their going out?—A. Why, very few of the ladies went on the street as long as the negroes were in town.

Q. How was it after they went away?—A. Well, even now there are ladies in town who are afraid to go out at night by themselves. They say they will never feel free again; feel as easy on the streets as they did before it all happened.

Q. Your mother was in a very hysterical condition at that time?—A. Yes, sir; we had to take her away from town for a while. We were away for a month after it all happened. She was in that excited condition.

Q. And she never has recovered?—A. She never has recovered. When we go out driving, she can not stand it to go out driving at night, if we see anybody at all on the street. In driving around at night on the streets she always feels uneasy and has to go home; can not go out at all after night.

Q. Has there, as far as you know, ever been any doubt at all in the minds of the people of Brownsville as to the fact that it was members of the negro troops that did the shooting up of the town that night?—A. No doubt at all.

Q. You never have heard any other opinion expressed?—A. No other opinion but that it was the negroes.

By Senator FORAKER:

Q. You are the daughter of the witness who testified immediately preceding you?—A. Yes, sir.

Q. Mrs. Moore?—A. Yes, sir; I am.

Q. Is your name Mrs. Mayfield or Miss Mayfield?—A. Miss Mayfield.

Q. Your mother has been married a second time?—A. She has; yes, sir.

Q. You are her daughter by a former marriage?—A. Yes, sir.

Q. What is your age?—A. I will be 23 in September.

Q. You were there in the hotel that night?—A. Yes, sir; I was.

Q. What room did you occupy?—A. The room adjoining my mother's, No. 26.

Q. She was on the second floor?—A. Yes, sir.

Q. And you were on the second floor?—A. Yes, sir.

Q. She was next to the alley?—A. Yes, sir.

Q. And you were in the second room back from the alley?—A. Yes, sir.

Q. Did your room front on Thirteenth street?—A. Oh, no.

Q. It fronted towards the barracks?—A. To the side.

Q. Toward what?—A. To the side. My room fronted on the side next to the yard.

Q. There is a yard right there?—A. By the side of the hotel.

Q. I will call your attention to that [referring to the map]. This is supposed to be the Miller Hotel.—A. Yes, sir.

Q. And you were somewhere about here, I suppose [indicating]?—A. Yes, sir. That is the yard.

Q. When you looked out of your window, you looked out over the yard?—A. Yes, sir.

Q. What was next to the hotel?—A. Oh, well, there is a veranda place there, for quite a ways down the alley.

Q. About how far?—A. From the side of the yard to the hotel, the outhouses, washrooms, and places of that kind.

Q. And you looked out right over them?—A. Right over them.

Q. What was the next house between you and the fort?—A. The house was just a little house that faces on the alley. It is not any higher than ours. It is a Mexican house.

Q. Was not Doctor Thorn's house there?—A. Doctor Thorn's house does not come back to the alley. It comes back, but so far off that it does not bother the view from us at all.

Q. It does extend back to the alley?—A. Yes; I know, but it is quite a ways from our house.

Q. I know it is quite a ways, but what is it when it comes back to the alley, a single-story, a double-story, or a three-story?—A. I think it is just a one story—let's see—it is just a single story.

Q. Just a single story?—A. Yes, sir.

Q. (Referring to the map.) This is Doctor Thorn's house, isn't it, marked here No. 4?—A. That is the front of his house. The front of the house comes to the street.

Q. This is the back part [indicating] and it fronts on the alley?—A. No; it fronts on Elizabeth street.

Q. No; I say, this is the back part, and that fronts on the alley?—A. Yes, sir.

Q. The rear part of the house fronts on the alley?—A. Yes, sir; the kitchen.

Q. And the front part comes clear out to Elizabeth street?—A. Yes, sir.

Q. The Miller Hotel does not come clear out to Elizabeth street?—A. No, sir.

Q. When you stand on the front veranda of the Miller Hotel and look out towards the garrison, Doctor Thorn's house obstructs the view, does it not?—A. Yes, sir.

Q. When you look out of the second story of the hotel, does not the rear part of Doctor Thorn's house obstruct the view?—A. No; you can see right over that.

Q. Look over that?—A. Yes, sir; right down to the corner.

Q. As soon as you heard the firing, what did you do?—A. I immediately got up.

Q. And where did you go?—A. To mamma.

Q. You ran to your mother's room?—A. Yes, sir.

Q. And then all of you gathered in the hall?—A. Yes, sir; went into the hall.

Q. You did not see anybody at all?—A. None of the negroes; no.

Q. You did not see any negroes?—A. No, sir.

Q. You simply heard the firing?—A. Yes, sir; that was all; and the voices.

Q. You heard the voices?—A. Yes, sir.

Q. Now, you were right there with your mother. She was a good deal excited, was she not?—A. Yes, sir.

Q. And you were somewhat excited, too, were you not?—A. I know that I was.

Q. And your mother has just testified that she could not tell whether it was the voice of a negro or not?—A. No; because she was very crazy. We worked with her quite a while.

Q. How were you?—A. I was more composed than mamma. My madness, she was nearly crazy.

Q. You were not scared like your mother?—A. I should say not.

Q. You were so far composed that you could recognize it as the voice of a negro?—A. Yes, sir; you could hear them while they were singing, all the way down the alley they were hollering.

Q. They were hollering?—A. From one to the other, you know.

Q. Out loud; pretty loud?—A. Yes, sir.

Q. What were they saying to each other?—A. "There he goes; shoot him. He turned down Main street. Get him."

Q. I know, you told us you heard that. How many people said that?—A. I could not say.

Q. More than one?—A. Yes; there were several voices, like several persons saw him. It was like two or three persons seeing one person, and they all hollered, "There he goes."

Q. You heard them all holler?—A. Yes, sir.

Q. About how many did you hear holler that?—A. Well, I don't know. I could not say how many there were; several voices.

Q. Your mother testified before Mr. Purdy that her daughter's testimony would be substantially what her's was. Has she any other daughter than you?—A. No other daughter who was present there.

Q. You were with your mother all that evening, were you not?—A. Yes, sir.

Q. And saw all that she saw?—A. Yes, sir.

Q. And she saw all that you saw?—A. You mean about the shooting, and the negroes, and all?

Q. Yes; I mean about this shooting around the hotel.—A. Oh, yes; I guess about the same.

Q. And you heard all that she heard, so far as you know?—A. Well, so far as I know.

Q. And she heard all that you heard, so far as you know?—A. As far as I know, of course.

Q. Now, in addition to that fact that you were together, did you also talk this matter over?—A. The negro trouble? Why, of course, we were all talking it over; we talked it over many times. We were talking the trouble over all the time.

Q. So your mother knew what your testimony would be from being with you?—A. I suppose so.

Q. And also from talking with you about it?—A. I suppose that is the way she knew.

Q. You did not testify before Mr. Purdy at all?—A. No.

Q. You were there at the hotel, were you, at that time?—A. Yes, sir.

Q. And they could have called you?—A. Yes, sir.

Q. But did not, because it was thought your testimony would be like your mother's?—A. About the same. I believe she told them that the testimony would be very much the same, that there would be very little difference, and he said there would be no use to take both.

TESTIMONY OF A. Y. BAKER.

A. Y. BAKER, being first duly sworn, testified as follows:

By Senator WARNER:

Q. What is your name in full?—A. A. Y. Baker.

Q. Your age?—A. Thirty-one.

Q. Where do you live?—A. Brownsville. Tex.

Q. How long have you lived there?—A. I have been in Brownsville, off and on, since 1898.

Q. What business are you engaged in?—A. Inspector of customs.

Q. How long have you been an inspector of customs?—A. About four years.

Q. Do you remember something of what we speak of as the Reed incident, where some colored soldier either fell off or was pushed off of the gang plank of the boat coming across from Matamoros?—A. Yes, sir.

Q. Just state what you know about that, Mr. Baker.—A. I was on duty at the ferry in Brownsville, the ferry coming across from Matamoros; and there were three negro soldiers came across the river. Two of them were drunk. One of them came across and was on the ground, and the other two stopped at the landing. One of them got into a fight with the boatman, and I walked down over to where they were and told the fellow that he would have to get away from there and stop his cursing; but he stayed there and would not go, and I got hold of his arm and threw him down the walk, and the river was very high, out of its banks, and the walk was narrow, and he went to stepping this way [illustrating] and he stepped off into this mudhole and fell flat on his stomach.

Q. In the mud?—A. Yes, sir; in the mud and water.

Q. Then what was done?—A. He got up and they started off towards town, and remarked that they would see about this to-morrow.

Q. What was remarked?—A. That he would see about this to-morrow.

Q. To whom was this remark addressed?—A. To the other negro that was with him.

Q. When was this—what day of the week?—A. It was on a Sunday.

Q. And the shooting up of the town of Brownsville was on Monday evening?—A. Yes, sir; about 12 o'clock.

Q. Monday night?—A. Yes, sir; Monday night.

Q. Where is your house located in Brownsville?—A. At that time it was on Levee street.

Q. That is the street west of Elizabeth street?—A. Fronting the river; right on the river.

Q. Did any colored soldiers come to your house after this, between this and the shooting up of the town?—A. Yes, sir; there was two come there Monday evening about sundown, between sundown and dusk.

By Senator LODGE:

Q. On Monday, did you say?—A. Yes, sir; Monday evening.

By Senator WARNER:

Q. Were you at home?—A. Yes, sir.

Q. Were they dressed in the soldiers' uniform?—A. Yes, sir.

Q. What was their business?—A. They said they were looking for Baker.

Q. Where did they come first? Did they come up to your house?—A. They came up the steps, up the stairway, and I heard some one coming up the steps, and I walked to the door, and when I got to the door they were at the top of the steps, and I saw it was two negro soldiers.

Q. What was the conversation you had with them?—A. I asked them what they wanted. They said they were looking for Baker, and I told them that was my name, and they said I was not the man they were looking for, that the Baker they wanted was a tall, slender fellow from Georgia; that they had known a man by that name in Georgia, were acquainted with him, and wanted to see him.

Q. You are pretty well acquainted in Brownsville, are you?—A. Yes, sir.

Q. And in the neighborhood in which you were living there?—A. Yes, sir.

Q. Was there any other Baker there that you knew of?—A. No, sir; unless it was some transient man coming to the hotel, or something of that kind; no one that lived there.

Q. No one on that street or in that part of the city, certainly?—A. No, sir.

Q. What was the first you heard of the shooting that night, if you heard any of it?—A. About 12 o'clock, my wife was sick and I was up giving her some medicine, and I heard one lone shot over toward the garrison, and then there were two or three more shots, and then a volley, and then the shooting seemed to go up the alley back of Cowen's, back of Mrs. Leahy's hotel.

Q. That is the Cowen alley?—A. Yes, sir.

Q. First you say there was one, and then there were five or six?—A. Yes, sir.

Q. And then seemed to be volleys?—A. Yes, sir.

Q. What do you mean by volleys?—A. Well, there seemed to be several shots, and then continual shooting, you know.

Q. Shots nearly simultaneous in their discharge?—A. Yes, sir.

Q. Did you go out of your house at all?—A. No, sir.

Q. You were in no position to see any of the shooting?—A. No, sir.

Q. Nor to hear anything that was said, if anything was said?—A. No, sir.

Q. About how many shots did you hear in all?—A. I suppose—I would have to guess at it—150 or 200 shots; something like that—about 150 shots, I guess.

Q. About how long did that shooting continue?—A. Well, I suppose about ten minutes; something like that, from the time the firing began until it ceased.

Q. Are you accustomed to hearing firearms?—A. Yes, sir; I am accustomed to hearing firearms and firing.

Q. The army gun?—A. Well, yes.

Q. Where have you heard the army gun; for instance, the Springfield, such as is used now?—A. I have never heard the Springfield

Q. Well, the Krag; you have heard that?—A. Yes, sir.

Q. Where did you hear that?—A. I heard it at target practice—the soldiers shooting.

Q. That is, the short-range practice in the fort there?—A. Yes, sir.

Q. You heard that frequently?—A. Yes, sir.

Q. When you heard this shooting, did you, from the sound or report of the rifle, form an opinion as to the guns being used?—A. Yes, sir.

Q. Did you make any remark about it to your wife at the time?—

A. Yes, sir.

Q. What was that?—A. First she asked me what it was, and I told her it was a fire in the post. I did not want to get her excited. Then when they began shooting so much, I told her I thought it was the soldiers coming up and shooting up the town, a crowd of drunken soldiers.

Q. Did you leave your house that night?—A. No, sir; I did not.

Q. Did not go down into the town at all?—A. No, sir.

Q. The next day, or at any time since the shooting, have you ever heard it questioned by anyone, that is, by the citizens there, but what it was members of the colored regiment that did the shooting up of the town?—A. No, sir.

Q. Did you notice any of the bullets or shells the next day?—A. No, sir.

Q. Did you go and examine the houses that were shot into?—

A. I saw Mr. Starck's house, I believe, and the Miller Hotel.

Q. Did you make any examination of them?—A. No, sir.

Q. Or any of the shells that were picked up, or the bullets?—A. No, sir.

Q. Made no examination of those whatever?—A. No, sir.

Q. Prior to this shooting you heard of the Evans incident that occurred, did you not?—A. I heard of it; yes, sir.

Q. And the Tate incident?—A. Yes, sir.

Q. Tate is also a revenue man there, is he not—a customs officer?—A. Yes, sir; he is a customs officer there, a mounted inspector.

Q. Prior to this shooting had you ever heard in Brownsville of any threats made by any of the citizens against the soldiers?—A. No, sir.

Q. Nothing of the kind?—A. No, sir.

Q. I do not know whether you know or not—do you happen to know the kind of arms that the rangers are equipped with?—A. Well, when I was with the rangers I know what kind we used, but now I could not say exactly as to what kind they use.

Q. When were you with the rangers?—A. About four years ago.

Q. You do not know what kind they use now?—A. I know what some of them have.

Q. What are they?—A. The .30-40.

Q. What make is it?—A. The Winchester make; made by the Winchester Repeating Arms Company.

Q. You had a Krag gun?—A. Yes, sir.

Q. Where did you get that?—A. I bought it in Austin.

Q. Did you know of any other Krag gun in Brownsville?—A. I don't know whether there were or not.

Q. You don't know of any other?—A. No, sir; unless some of them out in the country there, some of the rangers that were stationed out around Harleton, had one or two. I believe Mr. Delling has one.

By Senator FORAKER:

Q. Please spell that name.—A. D-e-l-l-i-n-g.

By Senator WARNER:

Q. But you knew of no other Krag in Brownsville except yours?—A. No, sir; I don't know of any other.

Q. This shooting that you heard, you had no doubt, as I understand you, that it was from high-power guns?—A. I had no doubt of it.

By Senator FORAKER:

Q. Had not Mr. Blalock a Krag?—A. I could not tell you. I don't know.

Q. You don't know what kind of a gun he had?—A. No, sir.

Q. And you don't know of any Krag, except Mr. Delling's Krag and your Krag?—A. I believe that is all I can think of now.

Q. I wish you would think carefully.—A. I know Mr. Delling has one.

Q. How long has he had it?—A. Well, I could not tell you. He belonged to the rangers, and he brought it there with him.

Q. He belongs to the rangers?—A. At that time he belonged to the rangers.

Q. Was that a Krag rifle or a Krag carbine?—A. It was a carbine.

Q. Look at those guns in the gun rack there and see if you find a gun of the kind that you refer to—that Mr. Delling has.—A. No, sir.

By Senator WARNER:

Q. (Showing the witness one of the guns.) That carbine is not the kind?—A. No, sir.

By Senator FORAKER:

Q. This is the latest model. What is the difference between the carbine that he had and this?—A. The carbine had a lever, and it is a shorter gun, and has woodwork up around here [indicating].

Q. Shorter than this?—A. Yes, sir.

Q. But you know it is a Krag gun?—A. Well, we call them .30-40's.

Q. You say you don't know whether Mr. Blalock had one or not?—A. No, sir; I could not tell you.

Q. Where does Mr. Delling live?—A. He lives in Brownsville at present. He is a mounted inspector there also.

Q. He is now where?—A. In Brownsville.

Q. Did he live in Brownsville at that time?—A. No, sir.

Q. Where did he live then?—A. He belonged to the rangers at that time and was stationed at Harleton, about 25 miles above there.

Q. Were the other rangers armed in the same way as he was?—A. I don't know.

Q. You don't know how they were armed?—A. No, sir.

Q. How long have you been in the customs service?—A. About four years.

Q. Do you have much trouble down there?—A. No, sir.

Q. That service is to suppress smuggling, is it not?—A. Yes, sir; that is what it is for.

Q. Do you make any arrests?—A. Yes, sir; make arrests.

Q. About how many have you had to make in your four years?—

A. Well, I could not tell you. I have never kept track of them.

Q. Give us some idea.—A. I could not say how many. It is all on record.

Q. Do you make as many as Mr. Starck makes?—A. Well, Mr. Starck has been in longer than I have.

Q. I mean during the last four years you and he have been both serving together, haven't you?—A. Yes, sir.

Q. At the same kind of work?—A. Yes, sir.

Q. Doing the same kind of work?—A. Yes, sir.

Q. And in the same territory?—A. Yes, sir.

Q. Have you been making about as many arrests, on an average, as he has made?—A. Well, I don't know whether I have or not. Sometimes I make more and sometimes less.

Q. Do you make a good many or not?—A. Yes, sir; a good many.

Q. There is a good deal of smuggling, or there has been, in the past, has there not?—A. Yes, sir; petty smuggling.

Q. It keeps you pretty busy to suppress it, doesn't it?—A. Yes, sir.

Q. How many customs officers are there at Brownsville?—A. Eight, I believe.

Q. Eight of you. Mr. Starck is one, you are two, Mr. Tate is three. Who are the others?—A. Mr. Layton.

Q. Mr. Layton is four. Who else?—A. Anthony Yznaga.

Q. He is five. Who is the next?—A. Celso Oliveira.

Q. And who are the others?—A. Francesco Cortez.

Q. That is seven. Who is the eighth?—A. The other is Mr. Delling.

Q. Has there been any increase in the number since you became a member of the customs service?—A. Yes, sir.

Q. How many were there when you became a member of the customs service?—A. Well, I don't remember.

Q. Can't you recall?—A. No, sir; I don't remember how many.

Q. There were only five of you, weren't there?—A. Four or five, as far as I can remember.

Q. Not more than four or five?—A. Sometimes they put on a special force.

Q. Well, I know, but the regular force was four or five?—A. Something like that.

Q. And now it is eight?—A. Yes, sir.

Q. Why did they increase the force from four or five up to eight?—

A. It looks like they wanted more men. It is a large territory to cover and they had to put more men out.

Q. The territory is just the same, isn't it, as it was then?—A. Just the same, but it is big ground to cover.

Q. Well, I know, but it is no bigger than it was when you had four or five men?—A. No; but they did not have enough then, either.

Q. What I want to get at is whether there was a necessity to increase the force to properly attend to the duties?—A. Yes, sir.

Q. That was because there was so much smuggling that it was necessary to increase the force?—A. Yes, sir.

Q. Did you make any arrests where you had to use force?—A. No, sir.

Q. They always gave up without resisting when you wanted to arrest them?—A. Yes, sir.

Q. You did not see any of the shooting on the night of August 13?—A. No, sir.

Q. And you were 150 yards away from the nearest point?—A. About that; yes, sir.

Q. You were away down on Levee street, near what cross street?—A. Near Thirteenth.

Q. And you did not go out at all?—A. No, sir.

Q. These two negroes who came to your house, who asked if Mr. Baker lived there, they came running up the steps, didn't they?—A. Yes, sir.

Q. They were not trying to slip up on you unawares, were they?—A. They did not seem to. They came running up the steps.

Q. Did they have any weapons in their hands?—A. I did not see any.

Q. Their demeanor was entirely peaceable, was it not?—A. They were drunk.

Q. They were drunk, were they?—A. Yes, sir.

Q. And they inquired if Mr. Baker lived there?—A. Yes, sir.

Q. And you said your name was Baker?—A. Yes, sir.

Q. And they said you were not the man they were looking for, that they were looking for a tall man whom they had known in Georgia?—A. Yes, sir.

Q. And then they went away, did they?—A. Yes, sir.

Q. They did not offer to do you any violence?—A. No; when they told me they wanted Baker, I told them my name was Baker, and after they explained about this Georgia business, they asked me what I would charge for laundering collars.

Q. Laundering what?—A. Laundering some collars.

Q. And you told them you did not want to launder any collars?—

A. I told them they were in the wrong pew, and to get out of there.

Q. To go away?—A. Yes, sir.

Q. And they went away?—A. Yes, sir.

Q. Offering no resistance?—A. No, sir.

Q. Making no demonstrations of any kind?—A. No, sir.

By Senator PETTUS:

Q. Did you have any weapon about you?—A. No, sir; not at all.

Q. They did not see your gun?—A. No, sir.

By Senator FORAKER:

Q. You did not show any gun, neither did they show any gun?—

A. My pistol was lying on the dresser just behind me.

Q. You had a pistol lying on the dresser behind you?—A. Yes, sir.

Q. What kind of a pistol was that?—A. A .45.

Q. That is, a .45 Colt?—A. Yes, sir.

Q. That pistol is carried by the customs officers there generally, isn't it?—A. Yes, sir.

Q. As a part of your equipment?—A. Yes, sir.

Q. What other equipment have you?—A. A .30-40.

Q. That is a carbine?—A. Yes, sir.

By Senator WARNER:

Q. What is the ammunition fired in the .30-40?—A. It is .30 caliber—.30-40.

Q. That is the same as the Krag cartridge, is it not?—A. Yes, sir; they can use the Krag cartridge.

At 4 o'clock and 16 minutes p. m. the committee adjourned until Wednesday, June 5, 1907, at 10 o'clock and 30 minutes a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Wednesday, June 5, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Scott (acting chairman), Foraker, Lodge, Bulkeley, Warner, and Pettus.

TESTIMONY OF ARTHUR I. DAVIS.

(The witness was sworn by Senator Scott.)

By Senator WARNER:

Q. Please give your name in full.—A. Arthur I. Davis.

Q. What is your age, Mr. Davis?—A. Twenty-seven.

Q. Where are you living?—A. San Antonio, Tex.

Q. Where were you on the 13th of last August, at the time of the shooting up of the town of Brownsville?—A. I was in my room on the third floor of the Miller Hotel, in Brownsville, at the starting of the shooting, and during the shooting I went down to the office, and from there to the sample room, and stayed in the sample room until they finished shooting.

Q. How long had you been living in Brownsville?—A. I went to Brownsville on the 17th of December, before that.

Q. From what place?—A. San Antonio.

Q. And where did you come from when you went to San Antonio?—A. I had been living in San Antonio about three or four years before that.

Q. From what State did you go to San Antonio?—A. Iowa.

Q. Are you a native of Iowa?—A. Yes, sir.

Q. Now, you say that you were in your room when you heard the shooting. Were you awakened from sleep, or had you been to sleep?—A. No, sir; I had not been to sleep yet.

Q. Where was the first shooting you heard, as near as you can locate it?—A. At the walls of the fort.

Q. And which way did that shooting proceed, if it proceeded?—A. It proceeded towards the center of the town.

Q. That is, from the fort?—A. Yes, sir.

Q. The location of the hotel you were in, then, was on the corner of what streets?—A. I am not positive as to the numbered street. I believe it is Thirteenth street and Elizabeth street.

Q. Thirteenth and Elizabeth—the Miller Hotel? That is marked there on the map at Thirteenth and Elizabeth streets. You were on the third floor?—A. Yes, sir.

Q. What was the nature of that shooting?—A. The nature?

Q. Yes; as to whether it was high-power guns, or what?—A. There were some reports that sounded very much like a six-shooter—a .44 six-shooter—being more of a dull report.

Q. That was the first part of the shooting?—A. No, sir; not the first part. There were a few of those mixed in after the start.

Q. Yes.—A. The majority, or almost all, of the reports were very sharp reports; that is all I can say, whether they were high-power guns or out.

Q. When you were in your room could you see the flashes of the guns?—A. No, sir; I saw no flashes of guns while I was in my room.

Q. Where did you see the flashes of guns, if at all?—A. I did not see exactly the flash of the gun.

Q. What was it you saw?—A. It was the light from the flash.

Q. Yes.—A. I would have had to have seen the gun, or at least been very close to the muzzle of the gun, to have seen the flash.

Q. It was the reflection of the flash that you saw?—A. The reflection of the flash. I was within the sample room at the rear of the office when I saw the reflection.

Q. Who was it went into the sample room with you?—A. Mr. Hammond, a guest of the hotel, and a Mexican porter.

Q. Was there much shooting around the Miller Hotel?—A. Yes, sir; there was a quite a good deal of shooting, I should judge fifty or seventy-five shots.

Q. What point in the sample room did you go to?—A. I turned to the right after entering the sample room, and stopped just around the corner of a small bathroom. The bathroom is a small square, cut into the sample room.

Q. Did you hear any report or any noise made by the guns, aside from the discharge?—A. Yes, sir; I could hear the shells being thrown into the magazine, or into the barrel, and the empty shells ejected.

Q. That is, you could hear the working of what is called the bolt of the magazine up here, for instance like this [working bolt of gun]?—A. Yes, sir; I could hear that.

Q. You could hear that?—A. Yes, sir. Jerk that a little bit harder.

Q. Like that [working bolt of gun]?—A. Yes; that is more like it. Naturally it would have to be jerked rather strong to make a sharp report.

Q. What part of the hotel were you in at that time?—A. The sample room.

Q. You saw no parties, I believe, Mr. Davis?—A. No, sir; I saw during the shooting no parties whatever.

Q. You were in no position to have seen them?—A. In no position to have seen them. When I looked out of the window in my room they were too far away, and I believe the trees would have covered the view.

Q. And when you say they came down towards the center of town, was that in the alley between Washington and Elizabeth streets, the alley that runs back of the Miller House?—A. Part of them came down that way.

Q. And where were the other reports?—A. A little farther back; possibly in the next street, and the street beyond that, yet.

Q. What street do you mean, Washington or Elizabeth street?—A. Washington, and possibly Adams; but I hardly think as far back as Adams. Washington street is my opinion.

Q. Did you go out that night?—A. Yes, sir.

Q. When was that?—A. About five minutes after the shooting had stopped.

Q. Right there let me ask you, what was your business in Brownsville?—A. I was keeping bees, starting bee yards—apiaries.

Q. I do not understand just what that is.—A. Raising honey.

Q. That is, establishing them there?—A. Establishing honey yards.

Q. And how long had you been in Brownsville?—A. From the 17th of December until the 13th of August.

Q. You had no feeling of prejudice against the colored soldiers?—A. None whatever.

Q. Now, you say you went out into the town about five minutes after the shooting stopped. I will get you to state what was the general statement, if any, as to who it was that had done the shooting up of the town, as to whether it was the soldiers or not.—A. It was the soldiers, without any doubt.

Q. That was the general statement?—A. That was the general statement.

Q. Did you examine any of the bullet holes in any of those buildings afterwards?—A. I did.

Q. What did you examine?—A. I examined the bullet holes in the Miller Hotel; very casually the bullet holes in Mr. Cowen's residence; I looked at the bullet hole that was in the saloon where the bartender was killed, and there were three bullet holes in the building opposite the Miller Hotel that I examined.

Q. What building was that?—A. I can not say; I do not know the name of the building or who owns it. It is a two-story brick building.

Q. Did you, as far as you could determine from what you could see of the point of entrance and point of exit of those bullets, form an opinion as to the location of the parties who had done the shooting?—A. I could; very exact.

Q. Now, which building do you refer to when you speak of that, the Miller Hotel?—A. Both the Miller Hotel and the brick building opposite.

Q. How did you determine the location of the parties doing the shooting?—A. By standing almost exactly in the tracks that they were and looking at the range of the bullets.

Q. When you say "the tracks that they were," you mean where you judged them to have been?—A. Where a person would have to be to fire a gun that would put a bullet where this bullet was—had been.

Q. And the range?—A. And the range.

Q. Did you see any of the shells that were picked up there?—A. I picked up about a dozen myself, very early in the morning. It was just getting light when I was out on the street.

Q. Where were those shells?—A. At the rear of the Miller Hotel, and the opposite corner of Thirteenth street and the alley.

Q. When you say "the opposite corner," do you mean diagonally across or directly across the alley?—A. Directly; on the other side of Thirteenth street in the alley.

Q. Could you judge sufficiently to determine whether or not those shells were freshly fired shells?—A. I would not swear positively that they were freshly fired shells, but from my experience I would say that they were—had been fired the night before.

Q. Now, did you see any arms there that night—guns—that is, in the house? You saw no guns? You did not see the soldiers; that is, you did not see the parties who did the shooting?—A. No, sir.

Q. You may state what you saw of any guns that night, and who had them.—A. I saw a patrol on the street about 10 o'clock. The patrol was carrying United States rifles, the only United States guns that I saw that night.

Q. Where were you when they passed?—A. I was in the office of the hotel.

Q. You could see them, could you?—A. They passed right by the window, within 8 feet of me.

Q. After the shooting did you have any gun?—A. I had a 12-gauge Winchester repeating shotgun.

Q. Who else? Did Mr. Goldsmith have any?—A. Mr. Goldsmith had one.

Q. What did you do with those guns?—A. We stacked them in the parlor of the Miller Hotel.

Q. Why?—A. We were looking for more trouble, and wanted to defend the women and children of the hotel.

Q. There was great excitement in the hotel, was there not?—A. There was; great excitement.

Q. You saw the company that came out after the shooting?—A. I did; and also I saw some more guns there.

Q. Did that company go near the hotel—by the hotel?—A. They passed in front of the hotel on Elizabeth street.

Q. Where were you at that time?—A. On the gallery in the second story of the hotel.

Q. Was anyone with you?—A. I can not think of the name of that man now. Mr. Canada was there, and one of the river guards was there. I do not remember his name.

Q. Did you hear any remark made by any of those soldiers as they passed at that time with the company?—A. Yes, sir. Pennington was the name of the man that was with me.

Q. What remark did you hear made by any of the soldiers of the company as they went by?—A. I would like to recall that statement. I did not hear, personally, any remark. That was hearsay, the remark that I had in mind.

Q. What was that remark?—A. "There is some more white people, up on the gallery."

Q. Yes. When was that told you?—A. I believe a very few moments after they passed. It was simply repeated.

Q. Repeated there?—A. Yes, sir.

Senator WARNER. Take the witness.

By Senator FORAKER:

Q. You were standing there when this remark was supposed to have been made?—A. Yes, sir.

Q. You had as good an opportunity to hear it as anybody else, I suppose?—A. I have some trouble in hearing at all times.

Q. Oh, you are a little deaf?—A. A little bit; slightly deaf.

Q. As I understand you, you did not hear anything?—A. I did not hear any statement.

Q. And you did not see anything. Did I understand you to say that you were connected with the hotel, Mr. Davis?—A. Yes, sir; I was working afternoons and nights at the hotel.

Q. As a clerk?—A. As a clerk.

Q. You are perfectly familiar with the hotel, then, I suppose?—A. Yes, sir.

Q. Can you tell us what rooms Mr. Chase and Mr. Bodin occupied that night—the engineer and fireman?—A. No, sir; I can not.

Q. They testified here that they were on the third floor.—A. They were on the third floor.

Q. Now, do you know how the room next to the alley at the corner was occupied, on the third floor, that night?—A. To the best of my knowledge at the present time, it was not occupied at all that night.

Q. It was not occupied at all that night. Then, towards Elizabeth street from the alley, the next is a hall?—A. Yes, sir. It runs out to Thirteenth street.

Q. There is only one window from that corner room fronting on the alley?—A. One.

Q. And then the next window on the street is at the end of the hall?—A. Yes, sir.

Q. I have a picture here of the Miller Hotel, No. 17 in part 2 of Senate Document 155, to which I will call your attention. This is a photographic representation of the Miller Hotel. This is correct. Is it?—A. Very exact.

Q. This is the veranda in front of the hotel, to which I am pointing, where you were standing when the patrol passed up the street [indicating on photograph]?—A. Yes, sir.

Q. When this remark was made?—A. Yes, sir.

Q. Which you did not hear, but others said they heard?—A. Yes, sir.

Q. How long was that after the firing was over?—A. Fifteen minutes.

Q. It might have been longer, might it not?—A. Yes, sir; it might have been.

Q. That was a full company, under the command of a commissioned officer?—A. I am not familiar enough with companies to say whether it was a full company or not.

Q. About how many men were there?—A. I should judge fifty or sixty men.

Q. Fifty or sixty men. That was, I suppose, Captain Lyon's company, Company D. And it was when they passed, you think fifteen minutes after the firing, and possibly longer, that you were standing on the veranda?—A. Yes, sir.

Q. And this remark should have been heard.—A. It is hard to estimate time.

Q. Yes; I know that is an estimate; but your estimate is important as showing how witnesses may be mistaken as to time. When you saw them they were marching up Elizabeth street towards the fort, were they?—A. Yes, sir.

Q. Do you know where they had come into Elizabeth street?—A. No, sir. My view would be cut off by this building here [indicating on photograph].

Q. That is, you are referring to the building immediately opposite the Miller Hotel, on Elizabeth street?—A. Yes, sir.

Q. And the building you refer to faces Elizabeth street?—A. Yes, sir.

Q. And your view would be cut off because the veranda on which you stood stands back from the street?—A. Here is the sidewalk; yes [indicating].

Q. It is away out, some distance?—A. Yes, sir. The Miller Hotel stands back, I should judge, 25 or 30 feet.

Q. And you were on that veranda in front of the Miller Hotel, standing back, so that your view would be cut off by the building on the opposite corner to which you refer, because it comes out flush with the street, does it?—A. Yes, sir.

Q. At any rate, they did not come into Elizabeth street from Thirteenth street?—A. No, sir.

Q. They were coming up Elizabeth street from some point farther away from the fort than Thirteenth street; that is correct, is it? They were coming up Elizabeth street?—A. Oh, yes.

Q. Now, coming back to these windows, I call your attention to the third floor, the rear, the windows there, and I call your attention to the windows in this order: first the window next to the alley on the third floor. That is the window that was in the unoccupied room?—A. Yes, sir.

Q. Then the next window was at the end of a short hallway?—A. Yes, sir.

Q. Then the next window is in what room?—A. The room occupied by Mr. Canada.

Q. Mr. Canada occupied that. Then the next window, the fourth one from the alley, was in a room occupied by whom?—A. I could not say.

Q. Then the next window?—A. They were all rooms that were given out to different people.

Q. Was that occupied by either Mr. Bodin or Mr. Chace? Did Mr. Bodin and Mr. Chace occupy separate rooms?—A. I believe that they did, although I do not know.

Q. And their rooms were adjoining, were they not?—A. I could not say as to that.

Q. But you could not tell whether their rooms were next to Mr. Canada's or not?—A. No, sir.

Q. They might have been still nearer to Elizabeth street?—A. Yes, sir.

Q. Can you tell us where the water-closet is in that hotel?—A. That closet is on the ground floor, away back in the back part.

Q. There is a window looking out from it?—A. Yes; there is a window looking out from it.

Senator WARNER. That is at the end of the alley, Senator.

By Senator FORAKER:

Q. The window out of the water-closet, where does it look?—A. It looks on Thirteenth street.

Q. Here is another photograph of the hotel, No. 1, in this Senate document. The window I point to now on the ground floor is the water-closet window, is it not [indicating]?—A. Yes, sir.

Q. Can you tell us how far that window is, as there represented, from the corner of the hotel? About what distance is it? That is the alley there, is it not, right at the rear of the hotel [indicating]?—A. Yes, sir; that is the alley.

Q. With Bolack's on the opposite side?—A. Yes, sir.

Q. About how far from the corner is this window?—A. I should judge 6 feet.

Q. Yes. There seems to be, according to that picture, a shutter for that window. Does it have one?—A. Yes, sir.

Q. What kind of a shutter is that?—A. A tongue-and-slat shutter.

Q. All of those windows on the ground floor have shutters, do they not?—A. I think all those on the Thirteenth street side.

Q. On the Thirteenth street side?—A. To the best of my remembrance; but the others, I think, do not.

Q. Above they have not—on the second and third floors?—A. On this street here.

Q. And they do not on the front—that is, fronting on Elizabeth street?—A. Yes, sir.

Q. But all on the Thirteenth street side on the ground floor have these slats?—A. To the best of my knowledge; yes, sir.

Q. Does not the picture show it?—A. The picture shows it; yes, sir.

Q. Is there a light hanging in that closet at night?—A. Yes, sir.

Q. What kind of a light is that?—A. A lantern.

Q. How is it arranged?—A. It is hung from a nail on the wall.

Q. Whereabouts on the wall?—A. On the side towards Elizabeth street.

Q. Could you draft a picture of that room?—A. I think I can, sir.

Q. Give us some idea about it. About how large is it, in the first place? Just make your drawing.

(The witness here made a drawing with lead pencil on a sheet of paper.)

Q. You have roughly sketched a plat of the room about which I have asked you—the toilet room?—A. Yes, sir.

Q. According to that, as I understand you, you enter that room from a hallway from the court?—A. From an open court.

Q. And you enter the court from the Elizabeth street side?—A. You can do it.

Q. How else can you enter?—A. Look at picture No. 17 again. Here is the court, between these two buildings [indicating].

Q. The court you refer to is the space between the two buildings, as shown in photograph No. 17?—A. Yes, sir. This is just simply a brick wall connecting the two buildings [indicating].

Q. Connecting the two buildings and running parallel to Elizabeth street?—A. Yes, sir.

Q. Is that an open space, and uncovered, which you call a court?—A. The majority of it is.

Q. How do you ordinarily go to get back into that room?—A. You can enter from this court, or go through the other door into the office, and the side door out of the office into the court.

Q. If you go back into the office you approach that room by entering, as you get opposite it, a small hallway?—A. Yes, sir.

Q. And that hallway entering the room runs parallel to Elizabeth street?—A. Yes, sir.

Q. And parallel to the alley?—A. Yes, sir.

Q. And when you get into the room where is the light you spoke of?—A. Here [indicating].

Q. You indicate a point on the wall parallel with Elizabeth street?—A. Yes, sir.

Q. About how far is that from where you enter the room?—A. I should judge 16 to 20 feet.

Q. And how far is it from the window opening onto Thirteenth street?—A. Between 8 and 10 feet.

Q. What kind of a lantern is that?—A. A very common lantern, a tin lantern.

Q. A tin lantern. What kind of a light is it, gasoline or kerosene, coal oil, or what?—A. Kerosene.

Q. About what size of wick is burned in it?—A. I suppose about an inch wick, possibly a little less than that.

Q. About an inch or perhaps less than that. About what candle-power, have you an idea, is it?—A. I do not know as to that.

Q. You do not know as to that?—A. No, sir.

Q. It is hung about how high from the floor on the wall?—A. About 4 feet.

Q. About 4 feet from the floor?—A. Yes, sir.

Q. And it has a glass front, I suppose, looking towards the inside of the room?—A. Yes, sir.

Q. It has a glass globe in it?—A. The light itself, the wick itself, is in a globe.

Q. The wick itself is in a globe?—A. Yes, sir.

Q. Then is there another glass outside of that, also?—A. No, sir; only one globe.

Q. Only one globe that the lamp burns in?—A. Yes, sir.

Q. Then what is there between that and the closet in front, there?—A. There would not be anything.

Q. Nothing at all. That is what I want to get at. Now, how is it as to the other sides, the sides of the lamp; how is it as to those?—

A. The same; it is just a round globe.

Senator WARNER. A round globe?

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. Is it a round wick or a square wick?—A. It is a straight wick.

Q. A straight wick, and there is nothing at the sides of the globe, either on the rear or on the front or on the sides of it?—A. No, sir.

Q. And it hangs at the rear, on the wall?—A. Yes; I want to make another statement about that, if I may.

Q. Certainly, Mr. Davis. We want to get the facts.—A. I believe that that lantern last summer stood a great many times on the floor in this corner of the toilet room [indicating on drawing], and sometimes it hung on that nail; but there was nothing absolutely positive about its being in either place. It might be hung on the wall or standing in that corner.

Q. You point to the corner on the Thirteenth street side—that is, towards Elizabeth street—the Thirteenth and Elizabeth street cor-

ner?—A. Yes, sir; when I started to describe it, it was from my remembrance of last spring, but afterwards I thought that it was placed on the floor in summer time.

Q. Now, do you know where it was that night?—A. I do not know where it was that night.

Q. What kind of glass is in this window? I wish you would look at this picture before you answer [indicating photograph No. 1].—

A. It is a very common pane of glass.

Q. It is a ground glass?—A. No, sir; a white glass.

Q. It is just a plain glass like there is in the other windows, is it?—A. Yes, sir.

Q. No difference. This seems to have a different appearance from the others, as you will notice from the photograph.—A. You simply get a little more light on this pane of glass, that is all.

Q. That is due to that, is it?—A. Yes, sir.

Q. I understood you to say that you examined some of the bullet holes?—A. Yes, sir.

Q. At the Tillman saloon, was that?—A. I only looked at those two bullet holes at the Tillman.

Q. You did not make a careful examination?—A. Not a very careful examination of those.

Q. You saw the spot where Frank Natus was killed, I suppose?—I saw the garden in which they said he was killed.

Q. Yes; but you could not recognize the bullet hole that the bullet which killed him made, if it made any at all, I suppose?—A. That was simply pointed out to me.

Q. What was pointed out to you, the hole that the bullet made?—A. Yes, sir.

Q. That killed him?—A. That killed him.

Q. Where was that hole?—A. That was on the side of the building. I should judge, about that high from the floor [indicating].

By Senator WARNER:

Q. About how many feet?—A. That is about 4 feet [indicating].

By Senator FORAKER:

Q. About 4 feet from the floor, on the side of the building. You mean the side of the building as you went into the building from the court?—A. I do not exactly understand your question.

Q. Let me explain to you. As we understand it, there is a gateway from the alley into that court from the rear?—A. Yes, sir.

Q. And Natus was killed in this court?—A. Yes, sir.

Q. Now, you say you saw this bullet hole on the side of the building. I mean was it the side of the building as you go into the gate, entering from the alley into the main part of the saloon?—A. Yes, sir; on the right-hand side of the wall of the court.

Q. On the right-hand side of the wall of the court; is that it?—A. That would be a part of the building—the court.

Q. Now let me call your attention here to this map. This is supposed to represent the Ruby Saloon. There is the alley between Washington and Elizabeth streets. They came up from towards the fort, from Cowen's. There is supposed to be a gate, where I point here, which opens into the alley.—A. Opening into the alley or opening into the court of the saloon.

Q. From the alley?—A. Yes, sir.

Q. About where was it that you saw this bullet hole? Indicate on which wall.—A. To the best of my remembrance the diagram of the wall here is not correct.

Q. In what is it not correct? How should it be different?—A. The gate should be in here [indicating].

Q. That is, it should be nearer the fort than it is shown on the map?—A. Yes; and the bullet hole was on this side of the building, in here.

Q. Is that all court, clear up to where I point?—A. All open.

Q. All this is open space?—A. Yes, sir.

Q. Is there any cover overhead?—A. On some of it there is.

Q. Did that bullet seem to have gone to the side?—A. No, sir; it seemed to pass directly through the man's body into the wall.

Q. Where was the man represented to you as standing?—A. Right in here [indicating].

Q. If he was standing there, from what point could the bullet have been fired?—A. From the gate opening into the alley.

Q. Yes. And it went then diagonally across the court?—A. Yes, sir; and that is why I say that map is not correct, because it could not have happened if it was that way.

Q. That is important. You are the only witness that has told us of that. How did they identify the bullet to which you refer, that must have gone diagonally across, as the one that killed him?—A. A person standing in the door in the alley, a line from the door through this man's body would just hit this place in the wall.

Q. What kind of a wall was that?—A. It was a brick wall, but whether the bullet passed into the bricks or into a casing there I can not say for certain.

Q. Do you know whether or not any effort was made to find that bullet there?—A. No, sir; I can not say anything about that.

Q. Nobody told you anything about that?—A. Very, very little.

Q. Do you know whether the bullet lodged in the wall or whether it went on through the wall?—A. I could not say.

Q. Or glanced off?—A. I could not say.

Q. You do not know anything about where it was. What kind of a looking hole was it in the wall?—A. I could not positively describe the hole. I just simply remember seeing that there was a hole, and then I turned and walked off.

Q. You were told that that was the bullet that killed him?—A. Yes, sir.

Q. Did you see any other bullet holes there?—A. Yes, sir; there was one in the front part of the saloon, made by a bullet that went straight through from the rear of the saloon and out into Elizabeth street, going clear through the building.

Q. How did it pass through; what did it pass through in front, in getting out on Elizabeth street?—A. Through the door casing of the store.

Q. Did you see a hole where one had passed through a window pane, a pane of glass; passed through the window?—A. I do not remember it.

Q. You do not remember that. But you did see one that had gone into the window casing?—A. It went through the door, the casing.

Q. Now, what do you mean by the casing?—A. This is the door [indicating on door of telephone booth]. Here is the glass, and this is the casing.

Q. What kind of a door was that?—A. A real old-fashioned, heavy, thick door.

Q. What kind of wood was it?—A. I do not know.

Q. But the bullet, you say, passed clear through the door?

Senator WARNER. Not the bullet, but the bullet-hole, Senator.

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. The hole made by the bullet penetrated clear through?—A. Yes, sir.

Q. About how thick was that door?—A. Two and a half inches. I should judge.

Q. Was it a pine door, or what kind of wood was it?—A. I could not tell. I did not examine it.

Q. You did not examine it. What kind of a hole did that make?—A. A very small hole.

Q. You remember that distinctly, do you?—A. Not very distinctly. I didn't pay but very little attention to it. There is only one bullet hole that I can describe that I remember accurately.

Q. This bullet appeared to have been fired from the rear part, back in the court, there?—A. Yes, sir.

Q. And had gone right straight through, and across, right through the building?—A. Right through the building.

Q. Did you see any bullet holes in the corner next to Twelfth street and Elizabeth? Did you see any hole up in that corner?—A. No, sir; I believe not.

Q. Did you see any holes in any boxes that were piled up there?—A. No, sir; I do not remember.

Q. The two that you have mentioned are the only two that you recall as seeing?—A. Yes, sir.

(Witness excused.)

TESTIMONY OF MRS. ANNA ADRIENNE COWEN.

(The witness was sworn by Senator Scott.)

By Senator WARNER:

Q. What is your name in full?—A. Anna Adrienne Cowen.

Q. Where do you live, Mrs. Cowen?—A. In Brownsville, Tex.

Q. How long have you lived there?—A. Why, I arrived there when I was about 10 months old, and I have lived there ever since. That is my home.

Q. You were there on the 13th of last August, at the time of the shooting up the town?—A. Yes, sir.

Q. Your house is at the corner of Fourteenth street and the alley, there?—A. Yes, sir.

Q. What kind of a house is it, Mrs. Cowen?—A. It is a small one-story frame building.

Q. How many rooms are there in it?—A. It has got three good-sized rooms in the front and three quite small ones in the back.

Senator FORAKER. I wish you would read that answer.

The WITNESS. It has got six rooms.

(The answer was read by the stenographer.)

By Senator WARNER:

Q. The night of this shooting up of the town you were at home, were you?—A. Yes, sir.

Q. Of what does your family consist, Mrs. Cowen?—A. At the time I had six children. My husband was not at home that night, and the little one had not come. I had five children with me. There were the five children, my servant woman, and myself.

Q. Had there been a party at your house that night, a children's party?—A. Yes, sir.

Q. About how many children attended it?—A. Between 36 and 40 children.

Q. Now, when this shooting commenced, how long before that was it that this children's party had broken up?—A. I should judge about a quarter of an hour. I think about that time; perhaps not quite; not more.

Q. Had you gone to bed when the shooting commenced?—A. No, sir; I was fully dressed, sitting at the head of the table, like I am right here at this table, waiting to get things ready for the night—I had that little boy to get things ready—and had sent the servant girl out for some hot water, and I was sitting at the head of the table just like I am here, just like this.

Q. In which room of the building?—A. In the middle room of the three back rooms which I have told you of, which was the dining room.

Q. Now, Mrs. Cowen, will you take your own time, and without any special questions, just state to us in your own way what you heard there of the shooting, and what occurred?—A. I was, as I told you, sitting at the head of the table, like this, and some of my children, the girls, were in the little room back of me, and my boy was in the room ahead of me. The dining room was small—the rooms are small—and I had told my eldest daughter, I said, "Gertrude, do not go to bed; I do not feel well. Stay up with me. Somehow I am nervous;" and she said to me, "I will not go to sleep, mamma; I am just lying here, and when the girl comes in with the water I will get up and help you." Just then she came and stood alongside of the table, and she was partly undressed, and the servant girl came in, just about that distance [indicating], right like there, with a little pitcher of hot water, when we heard the very first shots. Well, at the very instant the little children, of course, ran to me, you know, and they said, "Fire, mamma, fire." They all thought it was fire. I am quite familiar with the sound of army guns, because I have lived there twenty years of my married life, and I am perfectly familiar with the sound, especially during the Spanish war that they would have these sham battles, you know. Nothing could fool us or make us not know that it was the army guns. You could not but know that they were. The sounds were loud, you know; and then in the empty garrison, you know, we had heard the first shot, and then one, two, three, four, five shots, you know, and in the meantime the little ones all gathered around me, and I said, "Children, it is the soldiers;" but I thought that the soldiers and the policemen had gotten into a clash, you know. We never had had any trouble with anybody. I thought that they would go right on and we would be left behind,

never for a moment believing that there would be any trouble. And with this the shooting kept on, one, two, three, four, five shots again, you know, and it kept on coming closer, and I jumped up and I went to the hall door, and I said to the servant, "Oh, Mr. Louis is not at home!"

Q. That is your husband?—A. Yes, sir. He was always at home, he was a great home body and he was always at home in the evenings, but he had gone out to get me a lunch. It was late, and I was not well, and he said, "I will get you something, and I will be back in a minute." So I went to the front door and I kept on looking for Mr. Cowen, you know, and this servant girl said to me, she says, "Madam, it is best that he does not come, because he would never get here alive." In the meantime the back part of the house was completely thrown open, blinds and windows and doors and everything, and I was inexperienced, I didn't blow out my light, I didn't know that they would give me any more trouble, I never thought of anything, and the shooting kept on coming closer and closer, and the children all the time stood gathered by me, and when I heard that they were right on us, I said, "Children, get under the bed;" they followed me into the bedroom, and I said, "Get under the bed, and pray God to save your lives. If we are alive to-morrow we will all go and thank God in church." They got under the bed—I could tell them what to do, but we were all simply paralyzed, you know—excepting me and my boy. My boy threw himself on the floor at the end of the bed, and I crouched down as close as I could, and again I would raise up, and then again the shooting began. We stood it because we were too frightened to be frightened, if there is such an expression. We were just paralyzed. We heard one shot, and then it seemed that we just waited to see if the next shot would strike us. It did not, but the next one might. It was horrible. Every now and then the girl would call to the little ones, you know, to see if they had been killed—just easy, you know. They were under the bed, and no one made a sound, no one cried or whimpered or anything. This poor girl, you know, still thought it was a fire.

Q. That is your little Mexican servant?—A. Yes, sir; she is as good a girl as you ever saw. She tried to protect us. When she saw that the shooting was right on us—the kitchen was open, and that helped to throw a light out into the yard. The dining room is in the middle, and with the lamp in there it was sufficient to light the three back rooms, you see. She went to the window, and she was there when she saw the soldiers right at the alley—the fence. My alley fence is no farther than—

Q. What did she say when she saw the soldiers?—A. She still watched, she stayed there, when she saw them put a gun over the fence and blow out this lamp on the table. She was only that far, not 3 feet, from it [indicating].

Q. That is, when the shot blew it out?—A. Yes, sir. She dropped down then on the floor, and she couldn't close the windows any more, but she crouched and crept over until she got in my room. She was the only one that could see. She was the only one that had seen. We had the experience, but she had seen; and she panted and panted, she was so frightened. After a while, when the shooting stopped—in the meantime I started to get up, and my boy said: "Mama, get down; they are coming this way," and as he pulled me down I felt

something that went right over my head, right on my neck, back here [indicating], that went right over me, and we think that is the shot that broke my mirror. Then when the shooting stopped, directly on us, we straightened up, the servant girl did, and I got up, and we went and called to Mrs. Leahy, the lady that lives across the street, and I said that we were alone, and she said: "Has your husband come back?" I said, "No; and we are just frightened to death. We are nearly killed over here," and she says: "Shall we come over for you?" I said, "Yes; I wish you would." So she and Mr. Elkins, and Mr. Parks, who is dead now, and her sister, came over, and my two little ones were almost naked, they were barefooted, and we went across the street in the mud; it had been raining; I wholly dressed; I hadn't even begun to think of going to bed. I picked up the baby's things that I wanted for him, and we left the house completely open, and just ran over. Then Mr. Cowen came, after that, and I suppose I don't have to tell you anything about him; he will tell you his side. At any rate, when he was able to get home to us, he came, and I told him what happened, and I said: "I forgot the baby's condensed milk and left it over home; would you mind going for it?" He said: "Certainly not," and he took a lamp, and this Mexican girl said: "I will go with you, Mr. Louis."

Q. That is your Mexican servant?—A. Yes, sir; she has been with us twelve years. She said: "I will go with you, Mr. Louis," and they started over, and when they came back he said: "Well, did you think that that looking-glass was all that was broken over there?" He says: "You haven't an idea of the condition of things over home. Would you like to go over and see?" In the meantime we were upstairs, and saw the patrol go back into the post, and we knew that there were no more soldiers in the town, and we went over, and we saw the saddest sight you ever want to see; my looking-glass all shattered up—the glass is over a quarter of an inch thick—and everything all broken, and the splinters all over the house. You would think, "Where could all those splinters come from." All over the beds, large long splinters. It was awful. The beds hadn't been touched, you know; the children had simply thrown themselves on the bed; and everything was the saddest sight you would want to see. The next morning I think everybody in the whole town was there, and from the other side of the river; it was people just thronging in to see our house. Ladies were simply crying. I was turned into marble; I don't think I had any feeling left. They came in just to see the sight. And think of the wonderful providential escape that we had. It was a miracle. It was the providence of God; because I don't know why I selected that place to put my children in.

Q. What place?—A. Under the bed. That was the only place they could have been safe. Any place else they would have been killed. We were alone. If Mr. Cowen had been home we would all have been killed, probably, because he would not have crept under the bed; and the shots would come into one room, and go right into another and then into another, and if they missed us in one room, they would catch us in the next, or in the next. But I being alone, we simply got under there and made no noise, and did not move.

Q. How many shots were there that went into your house?—A. I do not know how many went in. There are twenty-three bullet holes in the house, that you can count, in the different rooms.

Q. About how high from the ground did those shots go into your house?—A. About that high; 3 to 4 feet [indicating]. There is a window in the end room, you know, and the blind is the size of the ordinary blind, and in a little place about this big [indicating]—

Q. About 6 or 8 inches?—A. Not more than 6, I should think; there are five or four different shots, you know. You can see the different shots, where they were shot without moving. Then on the other side of the window again; so that of course they came in at that height. But they went out higher as they went out.

Q. That shooting you heard first, you say, was as you have located it at the fort?—A. Oh, without doubt.

Q. And then it came towards your house?—A. Yes, sir; right on it; right, right on it.

Q. Your house is in the first block from the fort, is it?—A. Yes, sir.

Q. Did the Mexican girl tell you who it was that was doing the shooting when she came in so frightened?—A. Well, she didn't tell me—of course she told me, but I didn't have to be told. I knew who it was.

Q. What did she say?—A. She said: "Madam, I believe it is the day of judgment; the soldiers are going to kill us." Oh, she spoke about the soldiers. Oh, she didn't have to tell me, or anyone have to tell me.

Q. What did she say?—A. She said: "It is the day of judgment. I believe it is the day of judgment." She could say it, because she had just escaped, within 3 feet. She saw them, and the fright the poor girl was something fearful. I didn't need any telling, though.

Q. Now, Mrs. Cowen, what effect did this have upon the women folks of Brownsville afterwards, about going out?—A. I will tell you; so far as I am concerned, I am a great home body, I am always at home; and it has affected me, I think, more than anybody. In fact, no one has had the experience I have had. I have been out of my house twice in four months. When nighttime comes I just can not go out. I try my best, for the sake of the children, to go in the yard to get something; but if I go to the window next to the alley I just shiver, and close my eyes and shiver. I say: "Children, there is no danger," and then the little ones say: "Why are you afraid, mamma? Why do you tell us not to be afraid if you are afraid?" They never hear a door slam but they shiver. I tell you, I weighed 142 pounds before that—

Q. Yes; but a terrible ordeal, of course. Speaking of the distance from the ground, from the floor, at which those bullets passed through, the height of your house was about even with the porch?—

A. Yes, sir; you go up about three steps.

Q. Three short steps?—A. Yes, sir.

By Senator LODGE:

Q. It is not on the level of the street, but a little bit higher?—

A. A little bit higher; not on the level of the street. And the back part of the house, you just go up one step.

By Senator WARNER:

Q. From the place where these bullets hit your house, then, if any of you had been standing up you would have been certain to have been hit?—A. Yes, sir; even the smaller ones would have been; even the smaller ones.

Q. That shooting that you heard first you located at the post?—A. At the post, without a doubt; without a moment's hesitation. Not only the sound of the guns, the reports, but everything—everything. We never stopped to wonder what it was. We knew immediately it was at the post. We knew it was the army guns. There wasn't a moment's hesitation.

Q. This shooting came up the alley to your house?—A. It kept on coming nearer. They kept on firing, and I kept on wondering where was Mr. Cowen, and walking back and forth, you know, and the children right with me—right with me, you know— all except the girl that looked to see where the fire was.

Q. Did the firing, after it left your house, go uptown?—A. Yes, sir; it went uptown. I know it went uptown, because that is where they killed the bartender. But I was too frightened to know what happened to anybody else. I knew what I had gone through, and I don't have anything to say about anyone else or what happened anywhere else but right at my own home. I was too frightened to think of anything. My doors were all open. If they had just wished to turn the knob and walk in, the doors were open, and the windows and everything were open. We had a large Rochester lamp in the middle of the three rooms, and that was blown out; by the guns, I suppose. I didn't put it out.

Q. Did you see any of the shells that were picked up?—A. A good many. Major Blocksom has one that came out of our house. It was that large, and had a star at one corner of it. And another was taken out by the order of the mayor. It went through three walls and stuck in a beam. It struck a nail or something and stayed in that. And pieces of shells—pieces of steel jackets—were also given up to the parties that came down there. And then in the chiffonier, also. That bullet that went in the side window and blew out the lamp on the table, it came and struck the wall. The room is not any wider than from that fireplace to here [indicating].

By Senator FORAKER:

Q. About 10 or 12 feet?—A. Yes, sir; it is a narrow room. It went into the wall like that [indicating], went into the next room, and there was a heavy walnut chiffonier in there, and it made a hole about that big [indicating]. It first struck the glass window, and then it went through the wall with an opening just at this size [indicating], and then went into that wall; and then there is another opening on the other side of the wall, the splintered paper all broken up; and it went into the chiffonier and broke a lot of things that were in the chiffonier. We had just come from San Antonio; had been away three months, and had been home but twelve days, and it went into a drawer of that chiffonier and lodged, and broke up everything that was in it.

By Senator WARNER:

Q. Mrs. Cowen, among the people of Brownsville, in talking of this shooting up of the town, was it the opinion of all, or not, that the soldiers did the shooting?—A. It was the universal—not opinion, but belief.

By Senator SCOTT:

Q. What grudge did you think they had at your particular house, Mrs. Cowen?—A. None at all; none whatsoever. We have lived there all my married life. There are no children better known by the soldiers than mine, because their father is a great hunter, and he used to take them fishing in the lake at the post, and they used to go by themselves. I had four girls that used to go there, sometimes with their papa and sometimes alone, and they had been told if any of the soldiers were there occupying the wharf—we always used to go back of Mr. Leckie's quarters—just quietly to go and take another place; but it was never necessary, because the soldiers would move away and give the place to the children. They never insulted my children or said anything at all. Personally there was nothing; only, I will tell you. We go to bed very late every night; I think we keep later hours than anybody else around there. If they had any grudge against the town—we had just come home, as I was telling you, from San Antonio. My husband is not employed by the Government or any official, so that he had no trouble with them, and of course if they had a grudge or any cause to shoot up the town, if they did up one family it would have been sufficient, and my house afforded the best target. There was no other house that could have afforded the target that ours did; but as for ourselves, they had nothing against us; it was not against us.

Q. You spoke of Lieutenant Leckie. Do you remember when he was down at Brownsville?—A. Yes, sir. He was down not very long before we left. He was down on a second investigation. We know him. We knew all the army people very well.

Q. Did Lieutenant Leckie at that time say anything about who it was that did the shooting up of the town?—A. Of course he did. When I made this same remark to Mr. Leckie that I made to you, about it not being because it was us, that it might as well have been the Browns or the Smiths, he said, "Mrs. Cowen, I guess they were worked up to such a pitch that they just came and did the shooting," to that effect. Then when he was locating the shooting, he was around by the alley. He stood by the gate that is there and he said, "I guess that they stood in this position." He stood by the gate and just put his hands to show how the gun must have been leveled for it to go through that window and fire into the dining room.

Q. Did he ever express any doubt to you, from his investigation, that it was the colored soldiers that did the shooting?—A. No, sir; he never did. The first time he went down he did not come into the house. I tell you it has gotten so that I am tired of it. If any excursionists come to Brownsville, our house is the place they come to the first thing, and some of them do not even knock at the door, but just coolly walk in; and I did not let anyone in, any more. Captain Hay was at our house to see the house, and I did not let him in, because it is not always convenient, and we are simply tired of it.

Q. The last time that he was there did Lieutenant Leckie come into your house?—A. Yes, sir; he did. Not once, but several times. He looked in a good many times, locating the bullets, and he was there so much that he said, "Mrs. Cowen, here I am again, here I am again," and came in.

By Senator FORAKER:

Q. You were naturally very much excited that night?—A. Oh, I don't know how I ever lived through it, because I am of a very nervous temperament, and I can not understand where I got the courage nor the self-possession nor the presence of mind that I had that night. I might have gone into hysterics. The children say that I started to cry. They tell me that I asked for some water; and I tried to control myself, you know, for the sake of the children; but we just had the resignation of death, and that was because we never thought we would ever live through it, or at least that some of us would be killed, if not all of us.

Q. You have been very much excited whenever this matter has been brought to your mind ever since, haven't you?—A. Yes, sir. When I speak of it, it seems like I could not breathe, like it would choke me. The following day we left for Jagou's ranch, which is 3 miles from town, because we had promised, and we looked like people that were leaving our country for good and forever. The roads were horrible, you know, and we had to stop at church, as we had promised, and pray in church. Then we left for the country, and when we got there the following day I just felt like I was unjoined. I could not walk.

Q. Now, Mrs. Cowen, I do not want to cut you off from saying anything at all, but I want to ask you questions and get answers to them, and make your answers as concise as you can and be satisfactory to yourself; that is all. I asked you a moment ago whether you have not yourself been very much excited?—A. Oh, yes.

Q. Every time that this is brought to your attention?—A. Of course; yes.

Q. Since that time?—A. Very much so.

Q. You feel that way now, don't you?—A. Very much so, and after dark I can not go out. I will not leave the house.

Q. I will come to that directly. You spoke about leaving there the very next day?—A. Yes, sir.

Q. You went to some ranch. What is the name of that?—A. Jagou's ranch.

Q. How far away?—A. It is 3 or 4 miles from town.

Q. You said the roads were very muddy, I understood you?—A. Very horrible roads that we had to go through.

Q. Hard traveling?—A. Yes, sir.

Q. Had it been raining heavily there?—A. Yes, sir; and the waters were all overrun, and the roads were horrible.

Q. It had been raining almost continuously for some time before the night when this shooting occurred, had it not?—A. Yes, sir.

Q. Do you remember what kind of a night that was?—A. Well, I will tell you. I was sick, and I did not go in the parlor or anywhere near the children that night, excepting when the time came for refreshment; I served them the cream.

Q. No; I ask you what kind of a night was it?—A. I was sick and never went out at all.

Q. You did not look?—A. I did not look. I ran across the street when we went over there, but I had not been out.

Q. All I want to know is, whether you know what kind of a night it was, and if so, what it was. Now, you had been in San Antonio how long?—A. I had left Brownsville on the 13th of July and had just been home twelve days.

Q. Were you away with your entire family, or just yourself away?—A. I had a boy working in San Antonio, and he was taken sick with typhoid fever, and I had gone to nurse him.

Q. And the rest of your family had remained?—A. I had this one child that I have here by me now, and my youngest daughter with me, and my husband.

Q. Your husband was with you?—A. Back and forth at times.

Q. Back and forth?—A. Yes, sir.

Q. That was the 13th of July?—A. That I left.

Q. Did he go to San Antonio with you when you went there?—A. No, sir; when my little boy grew so sick that I had to have him with us.

Q. About what time?—A. About the latter part of July.

Q. Can you give us the date?—A. Well, it was before the 4th, perhaps the 1st of July.

Q. Before the 4th?—A. Yes, sir; I remember the incident. It was before the 4th of July.

Q. I understood you to say you went there the 13th of July—was it June?—A. It must have been the 13th of June.

Q. And not the 13th of July?—A. No; of June.

Q. Your husband did not go there with you?—A. No, sir.

Q. But you sent for him, and he came up about the 1st of July, some time before the 4th?—A. Oh, yes. He was there for the 4th.

Q. He was there for the 4th with you?—A. Yes, sir.

Q. How long did he remain there with you?—A. He stayed about ten days, perhaps more, I am not quite sure, until the boy was a little out of danger. He could carry him about for me.

Q. Then he returned to Brownsville?—A. Yes, sir.

Q. He remained there, did he, until you returned?—A. Until I returned.

Q. He did not come to San Antonio but once?—A. Only once.

Q. So that he was back in Brownsville, we will say, by the 20th of July?—A. Yes, sir; about.

Q. And remained there until the shooting affray occurred?—A. Yes, sir.

Q. You say he was ordinarily at home with you and the family at night?—A. Yes, sir; he is not a man that goes out. He is always at home.

Q. That was his habit, to be at home?—A. Yes, sir; that was his habit.

Q. But it was also your habit to be up rather late at night?—A. Always.

Q. How late do you mean to have us infer?—A. Until about 12 o'clock; between half past 11 and 12.

Q. So that it was nothing unusual for you to be up until 12 o'clock on this night?—A. No, sir. We have been up since at that hour.

Q. This night, however, your husband was not at home with you, as I understand?—A. No, sir. You see when the children came in, our supper was interrupted, and he sat playing with the children in the parlor.

Q. Wait until I understand that.—A. It was a surprise party, and when the children came in our supper was interrupted, the little ones all got up and no one finished supper.

Q. Let me ask you right there—you were at supper with your family at the usual hour?—A. Yes, sir.

Q. About what time was that?—A. Between half past 7 and 8.

Q. And suddenly these children appeared on the scene?—A. Yes, sir; I knew they were coming.

Q. You knew?—A. I knew they were coming.

Q. So it was not a surprise party to you?—A. No, sir.

Q. But to the rest?—A. It was to surprise one member of my family—one little girl—but the others knew it.

Q. The others knew they were coming?—A. Yes, sir.

Q. So it was a surprise party where you were in a measure prepared for their coming?—A. Yes, sir.

Q. They got there, then, about half past 7 or 8?—A. Yes, sir.

Q. And they remained until half past 11?—A. Until taps.

Q. Until taps?—A. Yes, sir.

Q. What hour?—A. Probably 11; I am not sure.

Q. Then they dispersed and went away?—A. Yes, sir.

Q. At what time did your husband leave the house?—A. Why, he stayed until about half past 10, I should judge, and he came in and he said to me, "I think I have done my duty entertaining those kids." He was playing with the younger ones, and it was very warm, and he said, "Let somebody else take their share now, I am going uptown, and I will bring you back some beer and some lunch."

Q. Bring you back some beer and some lunch?—A. Yes, sir; which he did. He had a sandwich in his shirt bosom, and he had a bottle of beer in his pocket when he got home.

Q. Well, we will get around to that after a while, if you will just let me. Now, you got back there about what time from San Antonio?—A. On the 1st of August.

Q. On the 1st of August?—A. Yes, sir.

Q. The colored troops were already there at that time, were they?—A. Yes, sir; and while in San Antonio some one remarked to me, "Just think, Mrs. Cowen, the colored troops have arrived in Brownsville." I said, "I don't care; they are just good as the whites. We have had colored troops before, and they have behaved just as well as anyone."

Q. You had no objection to them?—A. No, sir; none whatever. We had Captain Day, now Major Day, with the Ninth Infantry.

Q. You had always found them kind and well behaved, and void of giving offense?—A. Yes, sir; as far as we are concerned, I had nothing to say against them.

Q. You had nothing whatever to complain of?—A. No, sir.

Q. And you found these troops particularly so, didn't you?—A. I had nothing to complain of the colored troops there. I never saw them.

Q. About these troops that were there at this time?—A. They never bothered us.

Q. In so far as you observed them at all, they were orderly and well behaved, were they not?—A. They never bothered our family or passed our house in any way that we could complain of.

Q. And whenever your children appeared in the fort they treated them kindly?—A. Yes, sir; they did.

Q. And when the children went fishing, as they frequently did, the soldiers got up and gave them their places, so they could fish?—A. Yes, sir; they did.

Q. They fished in the dry lagoon back of the officers' quarters?—A. Right back of Mr. Leckie's house.

Q. Mr. Leckie's house. We do not know any house by that name.—A. Lieutenant Leckie's. It is the last one towards the lagoon, except a very small house that Mr. Matlock lived in.

Q. The last one towards the Rio Grande River?—A. Yes, sir.

Q. Do you mean this building here [referring to the map]?—A. That must be it. There was a very small house there—

Q. Beyond that?—A. Yes, sir.

Q. As you went in the gate and passed around in front of the administration building on the right?—A. Yes, sir.

Q. And came on up here [indicating on the map], that was Lieutenant Leckie's?—A. Yes, sir.

Q. They passed on in the rear of that to the dry lagoon?—A. Yes, sir; sometimes they would go back of Captain Macklin's.

Q. That was the next house to it, was it not?—A. I never went much in the post.

Q. Well, it was in this neighborhood?—A. Yes, sir; right there.

Q. They would go in there to fish?—A. Yes, sir.

Q. There was water at that time in the lagoon?—A. Yes, sir.

Q. It was not then a dry lagoon?—A. It never is.

Q. It had been raining a great deal that season and it was pretty well filled with water, was it not?—A. Yes, sir. Captain Macklin would go himself and sit there with the children.

Q. And the colored soldiers themselves helped the children, didn't they?—A. They offered them bait, so the children told me.

Q. They got bait for them?—A. No; they might not have got it, but when they were fishing there and the children would arrive and they would leave there they would offer the bait to them.

Q. Gave your children bait?—A. Yes, sir.

Q. And your children had only pleasant relations and experiences so far as the soldiers were concerned?—A. Yes, sir.

Q. And the soldiers did not mistreat them in any way at any time?—A. No, sir; they did not.

Q. They seemed to take a great deal of pleasure, did they not, in helping the children fish?—A. Well, you know they were alone, and they might have said something out of the way to the children if they wanted to.

Q. But they never did?—A. No, sir; they never did.

Q. Your children always spoke kindly to the soldiers?—A. Yes, sir. No children frequented the post like my children.

Q. So that it was a complete surprise to you that when the soldiers would break out and shoot up the town they would start in and shoot your house up worse than anybody's else?—A. I had no idea; never—

Q. That was a complete surprise?—A. Yes, sir.

Q. Now, let us find out just how they shot into your house. As I understand you, your house is on Fourteenth street and also on the alley?—A. Yes, sir.

Q. This black spot marked "No. 2" on the map indicates your house—is supposed to represent your house. Your house fronts on Fourteenth street?—A. Yes, sir.

Q. That is the front of it [indicating]?—A. Yes, sir.

Q. There is a gate right in the middle, right opposite the front door of your house?—A. Yes, sir.

Q. And the front door is in the middle?—A. Yes, sir.

Q. There is a porch in front, isn't there?—A. Yes, sir.

Q. And the door enters into a large hall?—A. Yes, sir.

Q. A sort of reception hall?—A. Yes, sir.

Q. And there are three rooms in the front, as I understand you; that is to say, there is one on each side of the room into which that door enters from the street?—A. Yes, sir.

Q. One out towards the alley and one over towards Elizabeth street?—A. Yes, sir.

Q. And then, going on through, you come back into the dining room?—A. Yes, sir.

Q. Which is immediately in the rear of the front door and the reception room?—A. Yes, sir.

Q. And then there is a small room on each end?—A. Yes, sir.

Q. There was a table standing in the dining room and you were sitting by that table when the firing commenced?—A. Yes, sir; just at the head of it.

Q. You were at the head of it. One end of that table was towards Elizabeth street and the other end towards the alley?—A. Yes, sir.

Q. And there was a Rochester lamp on it?—A. No; a student lamp.

Q. I understood you to say a Rochester lamp.—A. No; the Rochester lamp was in the hall.

Q. The Rochester lamp stood in the hallway?—A. The Rochester lamp was hanging in this hallway.

Q. Hanging in this hallway, this center room into which you entered from in front?—A. Yes, sir.

Q. And that is the lamp that the concussion of the bullets put out?—A. Yes, sir.

Q. The lamp was also extinguished that was on the dining-room table?—A. That was broken.

Q. The bullet hit that, did it?—A. Yes, sir. It broke the chimney.

Q. A bullet hit that, did it?—A. Yes, sir; it did.

Q. Now, where were those bullets that entered your house fired from, apparently?—A. Well, I will tell you that without a doubt they meant murder while they were at it, because there were no shots fired into that room [indicating] at all, none whatever. They were fired into the one that was more exposed, this little back room.

Q. The shots, then, were all fired, really, into this little back room?—A. Yes, sir.

Q. So that they went ranging right through these other rear rooms?—A. Yes, sir.

Q. There is a window, is there not, looking out onto the alley from that little room at the back?—A. Yes. My son was sitting on a chair right by that window.

Q. Before the shooting commenced?—A. Just when the first shot was fired.

Q. Did not some bullets pass in the window?—A. Four of them.

Q. All the bullets went in through that room, did they not, in the rear?—A. Yes, sir.

Q. No bullets went in the front part of your house; none were fired into your house from the Fourteenth street side?—A. They must have. The shot that broke the looking-glass, we think, came through the window from Fourteenth street.

Q. Where was that looking-glass stationed?—A. The room is catacornering, like that.

Q. I can not tell from that. Here is the alley and here is Elizabeth street.—A. Yes, sir; and my room, then, right there.

Q. This is your bedroom, next to Elizabeth street?—A. Yes, sir; and catacornering, in that little corner, was the wardrobe.

Q. That is, the back of the wardrobe?—A. The wardrobe was not catacornering, but the bed was catacornering.

Q. Your bed stood where?—A. Catacornering right in there.

Q. Right across the corner of the room—that is, in the end of your house towards Elizabeth street?—A. Facing Elizabeth street.

Q. And the corner you point to is the one next to Fourteenth street. Here is Fourteenth street, and you point to the corner there. Did your bed stand in the corner next to Fourteenth street?—A. My bed stood catacornering like, fronting on Fourteenth street, and that is the bed I put the children under.

Q. You put them under that?—A. Yes, sir.

Q. Now, so far as you can tell, there is no bullet hole entering that room from Fourteenth street, is there?—A. There is none through the front of the building, but the blinds were open and the bullets must have come in.

Q. The blinds were open and the window was open?—A. Yes, sir: the blinds were turned.

Q. And the window was up?—A. The glass was up.

Q. Did that bullet enter the window and go clear across that room?—A. Through the chiffonier.

Q. Where was the chiffonier?—A. The chiffonier was out in the hall.

Q. Did the bullet go into your room, then, at all?—A. No; it went in through the little dining room into the hall.

Q. It went through the dining room?—A. Yes, sir.

Q. I am getting mixed up, now. The dining room is in the rear?—A. That shot that went into the chiffonier was the one that extinguished the lamp, and the same shot went through the hall and went through the chiffonier in the hall.

Q. The same bullet put out the lamp that hung in the hall?—A. No, sir; I mean to say on the table, the student lamp.

Q. In the hall?—A. No; in the dining room.

Q. You are talking about the shot that struck the lamp which stood out in the dining room?—A. Yes, sir; and went on through the other room and lodged in the chiffonier.

Q. If it came through the dining room into the front part of the house, it must have been fired from the rear?—A. Yes, sir; it was.

Q. It could not have been fired from Fourteenth street?—A. No; it was fired from the rear.

Q. Just where was this chiffonier standing? I have got the bed located now.—A. In the hall.

Q. It stood out in the hall?—A. Yes, sir.

Q. So far as your bedroom was concerned, there is no bullet mark in that at all?—A. None, excepting on the doorsill of the door coming into my room from the back part of the house. Everything was from the back part of the house.

Q. Everything came in from the back part of the house?—A. Yes, sir.

Q. And those bullets that came in from the alley went clear through the house?—A. Yes, sir; clear through.

Q. Went through the outside wall, and those partition walls?—A. Yes, sir; some of them went up into the roof, you know; struck up.

Q. Ranged up?—A. Yes, sir; went through; because you can see the sky.

Q. They went in all kinds of directions?—A. Yes, sir.

Q. After they got into the house?—A. Yes, sir.

Q. Can you tell me, now, of any mark at all of a bullet in the front part of this house, except only the bullet that struck the chiffonier?—A. No, sir.

Q. And that is the same bullet, you think, that put the lamp out that was on the student table in the dining room?—A. Yes, sir.

Q. Came in from the rear?—A. Came in from the rear. If you were at home, this little child that is with me could tell you. He is frightened to death of a firecracker.

Senator FORAKER. I think I will just excuse this witness.

The WITNESS. I think if I live a thousand years, if it were possible for me to live that long, I don't think I could ever forget one item about that.

TESTIMONY OF AMADA MARTINEZ.

(The testimony of this witness was taken through the interpreter.)

AMADA MARTINEZ, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Where do you live?—A. In Brownsville.

Q. How long have you lived there?—A. I was born and raised there.

Q. Have you been living with Mr. Cowen for some years?—A. Yes, sir; twelve years.

Q. Were you at the Cowen home on the night of the shooting up of the town of Brownsville?—A. Yes, sir.

Q. There was a children's party there that night, was there?—A. Yes, sir.

Q. Did you hear the shooting that night?—A. Yes, sir.

Q. State in your own way now what you heard and saw. State it fully.—A. I was coming from the kitchen with a little jar of warm water, and as I reached the door I heard the shooting begin. I heard the shooting coming from the barracks, and Mrs. Cowen told me to put the jar down on the table. I went into another room and closed the door and stayed there for some time, while the shooting took place. I was in the room there closing a shutter at the window, and stood there for some time. While there I saw them coming, five in front and five behind, and then I turned around as the first shot

entered the house, coming through the window, over a table in the dining room. One of the shots went over my head, and over a wardrobe. I allowed myself to drop down. Then I crawled the best way I could into Mrs. Cowen's room. Then I sat down there. Mrs. Cowen told me to sit down and not to move or go anywhere. Then I heard some voices talking and I went to the door of the passageway. It was Mrs. Leahy and a gentleman with her. They were at a window. Then I informed the lady of the house about it, telling her that Mrs. Leahy had asked whether they wished to go over to her house. Then Mrs. Leahy came over for us. Then we went over to Mrs. Leahy's and passed the night there.

Q. Did you go back again to the house after that that night?—A. Yes, sir; about 1 o'clock.

Q. Why did you go back then?—A. To get the baby's diapers and the nipple of the nursing bottle.

Q. When you saw those men coming as you say, five in advance and five back, could you tell whether or not they were soldiers?—A. Yes, sir; I saw that they were soldiers.

Q. How do you know that they were soldiers?—A. Because as I closed the window in the alley I could see them coming, and I could plainly see that they were soldiers.

Q. Do you know how the soldiers are usually dressed—the soldiers' uniform?—A. Yes, sir.

Q. Were those men dressed the same as the soldiers as you had seen there, the other soldiers?—A. Yes, sir.

By Senator FORAKER:

Q. How were they dressed?—A. In yellow; that yellow uniform.

Q. Did they have on blouses or coats?—A. Those coats which they all use.

Q. Did they have the yellow khaki coats outside of their shirts, or were any of them in their shirtsleeves?—A. Yes, sir; they had blouses.

Q. Every one of them?—A. Yes, sir.

Q. And did they have on belts?—A. I could see them from the waist up, at the window.

Q. Could you see whether they had belts on or not?—A. The thing around their waists; yes.

Q. You could see that distinctly?—A. Yes, sir.

Q. Could you see the lower part of their bodies?—A. Yes, sir.

Q. Did they have on leggings?—A. Yes, sir.

Q. So you could see how they were dressed from their heads down to their feet?—A. Yes, sir.

—Q. You saw these soldiers when you went to the window to close it, I understand?—A. Yes, sir.

Q. And about how much firing, about how many shots had been fired up to that time?—A. I can't tell you how many shots there were, because they went tra, tra, tra, tra, one after each other, and it was impossible to say.

Q. Didn't you run to close the window almost at the same instant that the firing commenced?—A. Yes, sir; it began—

Q. And you went at once to close the window as soon as it began?—A. Yes, sir.

Q. And at that time you saw those soldiers coming up the alley?—
A. Yes, sir.

Senator SCOTT. How close was she to them?

By Senator FORAKER:

Q. I will get to that directly. Where were you when the firing commenced?—A. I was in the little room, just as I was going to close the window.

Q. Do you mean the little room next to the alley?—A. Yes, sir; next to the alley.

Q. Did you close the window?—A. I closed it and retired immediately.

Q. Were you closing the window or closing the shutters of the window?—A. The shutters of the window.

Q. Was the window raised when you went to it?—A. Yes, sir; the glass sash was up and open.

Q. And the shutters were thrown back?—A. Yes, sir.

Q. Did you reach out and get hold of the shutters?—A. Yes, sir; this way [illustrating].

Q. And before you brought them together you let go and ran away, did you?—A. Yes, sir.

Q. And did not go to the window again?—A. No, sir.

Q. Whatever you saw, then, you saw then in just that moment you were at the window trying to bring the shutters together?—A. Yes, sir.

Q. And that was before any shot was fired into your house?—
A. Just as I turned around the firing began.

Q. The firing commenced at your house?—A. Yes, sir.

Q. But no shots had been fired into your house when you went to the window?—A. No, sir.

By Senator WARNER:

Q. Did you see that those were black men?—A. Yes, sir.

By Senator FORAKER:

Q. How black did they seem to be?—A. They were black. I saw them well.

Q. Were they any blacker than a good many of the Mexicans are who live at Brownsville?—A. Yes.

Q. Much blacker than any of the Mexicans?—A. Yes.

Q. Were they black men or simply mulatto men?—A. Negroes.

Q. You are not mistaken about that?—A. No, sir; I saw them.

Q. Were they any blacker than the policeman, Padron?—A. Oh, yes.

TESTIMONY OF LOUIS R. COWEN.

LOUIS R. COWEN, being first duly sworn, testified as follows:

Senator FORAKER. Shall I proceed with this witness?

Senator WARNER. Yes.

By Senator FORAKER:

Q. Please state your name in full, Mr. Cowen, so we may have it in the record.—A. My name is Louis Rutland Cowen.

Q. You spell your first name L-o-u-i-s?—A. Yes, sir.

Q. Please speak out distinctly, because we are some distance from you, and it is difficult to hear at this end of the table. How old are you, Mr. Cowen?—A. I am 44 years of age.

Q. Where were you born?—A. I was born in Brownsville, Tex.

Q. And have lived there all your life?—A. I have, except when I have been north, being educated.

Q. Where were you educated?—A. In New York and in Bardstown, Ky.

Q. Where?—A. Bardstown, Nelson County.

Q. Bardstown, Ky.?—A. Yes, sir.

Q. And New York City?—A. Yes, sir.

Q. At what institution in New York City were you educated?—

A. I said New York City. I meant to say Hoboken, N. J.

Q. Well, at what institution in Hoboken, N. J., were you educated?—A. Hoboken Academy.

Q. Hoboken Academy; and in Bardstown, at what institution?—

A. St. Joseph's College.

Q. Are you graduated at either of those two institutions?—A. I graduated in Kentucky.

Q. How long were you at New York—Hoboken?—A. I do not quite remember; I think nearly two and a half or three years.

Q. And how long were you at Bardstown?—A. I was in Bardstown at college one session—one year. I stayed longer there.

Q. And you were graduated there?—A. Yes, sir.

Q. What was the name of that institution—St. Joseph's College?—A. St. Joseph's College.

Q. In a classical course?—A. No, sir.

Q. What course?—A. The commercial course.

Q. The same course you pursued at Hoboken?—A. No, sir.

Q. What course did you pursue at Hoboken?—A. I studied the scientific course.

Q. Did you graduate in the scientific course?—A. No, sir.

Q. What year did you graduate at Bardstown?—A. 1881.

Q. And you had been in New York or Hoboken immediately preceding that?—A. No, sir; I had been home for a year; come back on account of my health.

Q. Your health was not good. Then after you graduated, did you engage in business?—A. I did, sir.

Q. What kind of business?—A. I went into the employment of Blumberg & Raphael.

Q. What kind of business were they engaged in?—A. Dry goods and general merchandise.

Q. In what capacity did you serve them?—A. I went in as assistant bookkeeper.

Q. How long did you remain with them?—A. About thirteen years.

Q. And then after that what did you do?—A. Then after that I traveled on the road.

Q. That brought you down to what time?—A. About four years ago.

Q. You were graduated in 1881?—A. Yes, sir.

Q. And you went then immediately into the employment of Blumberg & Raphael?—A. Yes, sir.

Q. And remained with them thirteen years?—A. About thirteen years.

Q. And quit them, then, in 1894?—A. About that time, sir; I can't remember.

Q. Then you went immediately on the road?—A. Yes, sir.

Q. And I understood you to say just now that was about four years ago?—A. It was four or five years ago that I quit the road, sir.

Q. I am trying to give you an opportunity to correct your answer, which should be corrected.—A. I think between four and five years ago I quit the road.

Q. If you went on the road immediately after you quit Blumberg & Raphael, in 1894, it must have been a good deal longer than four or five years ago.

Senator WARNER. I understand him to say that he quit the road four or five years ago.

By Senator FORAKER:

Q. Oh, you quit the road four or five years ago?—A. I quit traveling as a drummer then.

Q. You continued on the road until four or five years ago?—A. Yes, sir.

Q. For whom were you traveling?—A. I traveled for the A. B. Frank Company, of San Antonio.

Q. What business were they engaged in?—A. Both dry goods and a grocery department. I belonged to the dry goods department.

Q. And where did you travel?—A. I traveled from San Antonio to Laredo and from Laredo to Brownsville, Tex.—that is, zigzagging the Rio Grande, crossing from one side to the other, visiting towns on both sides of the river.

Q. Were you in Mexico a part of the time?—A. Yes, sir.

Q. Well, you quit that business four or five years ago. Then what did you become employed at?—A. I have been with the New York Life nearly three years, sir.

Q. You represent the New York Life Insurance Company, you are their Brownsville agent?—A. I am at Brownsville, yes, sir. They have no local agent.

Q. There is no local agent there, is there?—A. No, sir.

Q. Have they an office there?—A. No, sir.

Q. They do not maintain any office there?—A. No, sir.

Q. And if you happen to get somebody to make an application for insurance, they receive it from you?—A. I send in applications from wherever I get them. I travel on both sides.

Q. How many applications have you sent them?—A. I could not tell, sir.

Q. Have you any idea?—A. No, sir; I could not tell you.

Q. Have you ever represented the New York Life Insurance in any way as an appointed agent?—A. Yes, sir.

Q. You hold a commission from them?—A. Yes, sir.

Q. Where—at Brownsville?—A. At Brownsville.

Q. Authorizing you to represent them and solicit insurance?—A. Yes, sir.

Q. Well, that is all I want to know. Then you have represented them for a period of about three years?—A. It will be three years this July?

Q. You are still representing them, are you?—A. I am, sir.

Q. Did you have any official position at any time?—A. No, sir.

Q. Were you ever deputy clerk of the court?—A. I was, sir.

Q. When was that?—A. Last year, sir.

Q. How long a time did you hold that position?—A. About a year.

Q. When did you enter upon the duties of that position, and when did you quit that position?—A. I quit the position last February.

Q. February of this year, 1907?—A. Yes, sir.

Q. And you took that position at what time?—A. At the September term of court prior to that. It was the year before that.

Q. September, 1906?—A. September, 1906.

Q. At the time when this shooting affray occurred in Brownsville you were not holding that position?—A. No, sir.

Q. You have been holding it since?—A. I held it up to last February, sir.

Q. Up to February?—A. Yes, sir.

Q. How did you come not to continue in that position?—A. Well, I was absent at San Antonio, sir. I went over to the court-martial, and that was in the month of February, and I was kept over there during court time, and I could not attend to it, and they appointed another deputy.

Q. Appointed another man to take your place?—A. Yes, sir.

Q. You had no trouble in connection with your duties, of any kind?—A. No, sir.

Q. Where were you on the 13th day of August, 1906?—A. I was in Brownsville.

Q. How long had you been there? How long had it been since you had been away from Brownsville?—A. I generally go to San Antonio every two or three months.

Q. Had you been to San Antonio shortly before this time?—A. I had been there in June or July.

Q. Do you remember how you happened to go there?—A. I went on business connected with the insurance company, sir.

Q. Business connected with the insurance company. Were you up there soliciting some policies?—A. No, sir; I went to report to the company; no, sir; I will tell you what I went there for. I can tell you now. My boy was sick with typhoid fever in July a year ago, and I was telegraphed to go there and see him.

Q. Mrs. Cowen telegraphed you and you went up to San Antonio? Now, can you tell us at what time you returned from San Antonio to Brownsville?—A. I returned, I think, about the 1st of August.

Q. This battalion of the Twenty-fifth was in barracks there when you returned, was it?—A. No, sir; I do not think so.

Q. You got back before they came?—A. I got back before the 1st of August.

Q. How long before?—A. Just a few days, sir.

Q. You were back earlier than the 20th of July, were you not?—A. I could not tell you; I don't remember, sir.

Q. Can you tell us how long you were at San Antonio?—A. I was over two weeks at San Antonio.

Q. You were there before the 4th of July, were you not, and spent the Fourth there, didn't you?—A. No, sir; I think I was on the road on the 4th of July.

Q. Well, you were back, anyhow, before the colored troops came there?—A. Yes, sir.

Q. It has been testified that they came on the 26th of July.—A. Yes, sir.

Q. How long before that date were you back at Brownsville?—A. Well, I should say four or five days..

Q. So you think you were back as early as the 22d or 23d, or something like that, in July?—A. Yes, sir; something like that.

Q. Did you hear any talk about the soldiers coming before they arrived?—A. Yes, sir.

Q. What was the nature of it?—A. I heard them say the colored troops were coming.

Q. Did you hear anybody express any dislike of that fact?—A. I don't know that I ever heard anybody express themselves—simply might have said that they would rather have the white people there.

Q. That is as far as you ever heard?—A. Yes, sir.

Q. You never said anything in opposition to their coming?—A. No, sir.

Q. You had no opposition at all to their coming?—A. No, sir.

Q. You have no prejudice against the negro?—A. Not at all. I thought the negro troops would be much better than the whites.

Q. You thought that they would be better than the white troops, and you had no trouble and no prejudice against them before they came, on account of their color?—A. No, sir.

Q. And you never had any trouble after they came?—A. No, sir.

Q. You never said a word at all?—A. No, sir.

Q. No criticisms of their coming, I mean prior to the shooting?—A. No, sir.

Q. And after they came, so far as you know, they behaved well, didn't they?—A. No, sir.

Q. I am speaking so far as you yourself had to do with them. There were some instances I will ask you about presently.—A. No; they never did me anything.

Q. Did not do you any harm?—A. Not a bit.

Q. And you did not do them any harm?—A. Not a bit.

Q. And they did not do your family any harm?—A. Not at all, sir.

Q. And your family did not do them any harm?—A. No, sir; not that I know of.

Q. Your children went fishing in the dry lagoon over back of the officers' quarters in the reservation, didn't they?—A. Yes, sir; and I went with them several times.

Q. And you were always treated nicely by the soldiers?—A. They did not say anything to me, or do anything.

Q. They treated the children nicely, didn't they?—A. All I saw, they did.

Q. Gave them their places to fish at?—A. I think so.

Q. Furnished them with bait?—A. Yes, sir.

Q. And everything was as pleasant and agreeable as you could

imagine, so far as your relations with them were concerned?—A. Yes, sir; they never said anything or molested us.

Q. Never in the slightest?—A. No, sir.

Q. So do you know of any reason why, if they did this shooting, they should shoot into your house more than they did into any body else's house, as though they had a special spite at you?—A. I do not see why they should have shot into my house at all, sir.

Q. You have no idea why they should have singled out your house and shot into it, have you?—A. I do not know of anything.

Q. That fact was something of a surprise to you, was it not?—A. It was not a surprise to me.

Q. Why was it not a surprise to you?—A. Well, I had been notified that the negroes would shoot up the town of Brownsville.

Q. You had been notified by whom and when?—A. By a negro man by the name of William Henry.

Q. William Henry?—A. Yes, sir.

Q. He is the man who testified before the grand jury?—A. I believe he did; yes, sir.

Q. Well, what did he tell you and where did he tell you?—A. He met me on the street, and he said, "Mr. Louis, I want to tell you something." I said, "What is it, Billy?" and he said, "You had better be prepared, I don't know that you can do anything, but they say—the negroes say—that they will shoot up the town after pay day."

Q. After pay day?—A. Yes.

Q. About when was it he told you this?—A. About a week prior to the shooting.

Q. Well, can you give us the day of the month?—A. Seven days before the 13th. I will not say it was just seven days, I said about a week.

Q. You said about a week, and I asked you if you could give us the day of the month that it happened.—A. I could not tell you. I say it was about a week.

Q. Well, about the 6th, then, we are to understand, of August?—

A. It might have been the 7th and might have been the 8th, sir.

Q. Well, I want to get at it as nearly as I can. He told you that?—A. Yes, sir.

Q. Is that all he said?—A. Yes, sir; that is all he said.

Q. What did you say to him?—A. I don't remember. I may have said "I don't believe it." I don't remember.

Q. I want to know what you did say?—A. I don't remember saying a thing.

Q. Did you go and tell anybody that the town was going to be shot up?—A. I did not.

Q. What did this man Henry have to do with the soldiers, that he should have heard that they were going to shoot up the town?—A. I don't know what he had to do with the soldiers. He used to be an old servant in our house.

Q. He had lived with you as a domestic servant in the house?—A. Yes, sir; that is, in my father's house when I was a boy, and he met me and he told me that; mentioned that the negroes would shoot up the town after pay day.

Q. After pay day?—A. Yes, sir.

Q. Did you make any preparation then?—A. Not at the time. The day of the shooting it occurred to me then that it was past pay day, and I bought some cartridges.

Q. You did what?—A. I bought some cartridges.

Q. Where did you get those cartridges?—A. I bought them from a man by the name of Jagou, who had been in business, and he had all the stuff closed away in his warehouse.

Q. What kind of business had Jagou been in?—A. Arms and ammunition, wholesale and retail groceries, and wines and liquors.

Q. Wines and liquors. Where was his place of business?—A. His place of business was where the Ruby Saloon is now.

Q. Where the Ruby Saloon is; and where did you get this ammunition?—A. I got it at his residence. He has a warehouse at his residence.

Q. Where was his residence?—A. His residence is between Thirteenth and Fourteenth streets.

By Senator WARNER:

Q. That is, in a warehouse you say he has?—A. In the warehouse in the back of his yard.

By Senator FORAKER:

Q. You went to the warehouse in the back of his residence?—A. Yes, sir.

Q. And his residence is between Thirteenth and Fourteenth streets?—A. Yes, sir.

Q. It fronts on Washington street, does it not?—A. No, sir; the warehouse does not.

Q. I mean the residence.—A. Yes, sir; the residence.

Q. And the warehouse fronts on this alley?—A. The warehouse fronts on the alley.

Q. And that is the alley that passes in front of your house?—A. The same alley.

Q. Up which these men went who constituted this shooting party?—A. Yes, sir.

Q. They went right in front of that warehouse, did they?—A. Yes, sir.

Q. About how many rounds of cartridges did you get?—A. I bought 40 rounds.

Q. What kind of ammunition was that?—A. .45-75.

Q. .45 and 75?—A. No, sir; .45-75 Winchester.

Q. .45-75—that is, .45 caliber and 75 grains of powder?—A. I think so.

Q. Well, are you stating it accurately or are you simply guessing?—A. No, sir; I am simply stating that the gun was a .45-75 Winchester, bottle-necked cartridge.

Q. And that is the kind of ammunition you got?—A. Yes, sir.

Q. What kind of a Winchester is it that shoots such a large caliber as that?—A. It is a Winchester, model of 1876, sporting rifle.

Q. Were those steel-jacketed bullets?—A. No, sir.

Q. They were lead bullets, were they?—A. Yes, sir.

Q. Do you know the weight of those bullets?—A. I can not tell you, sir.

Q. Are they round bullets?—A. They are round, and the nose is flat.

Q. The nose is flat?—A. Yes, sir.

Q. Is it not simply a round bullet—the whole bullet spherical?—A. No, sir.

Q. It is a long bullet, is it?—A. Yes, sir; it is a long bullet.

Q. But with a rounded nose?—A. Rounded and flat at the end; the top is cut off.

Q. What is that?—A. It is a bottled-necked cartridge, and it drops down, but it is flat at the end, just like this lead pencil is.

Q. That is the kind of cartridge you got, and you got 40 of them?—A. Yes, sir.

Q. And you had a gun, of course, for them?—A. Yes, sir.

Q. How long had you had that gun?—A. I had had that gun probably a couple of years.

Q. You are a hunter, are you not—hunt a good deal?—A. I do; yes, sir.

Q. You use sporting rifles a good deal?—A. No, sir.

Q. Don't you go hunting frequently?—A. I do.

Q. Don't you use a rifle when you go?—A. No, sir.

Q. What do you use?—A. A shotgun.

Q. You generally hunt with a shotgun—what kind of game do you hunt?—A. I hunt ducks.

Q. On the Rio Grande?—A. No, sir; I hunt ducks in the ponds that overflow from the Rio Grande.

Q. They overflow from there. You see we do not know anything about that country and we have got to ask you a great many questions.—A. Well, sir, I will answer them.

Q. These things may seem simple to you, but we want to get the information. Round about Brownsville is where you hunt ducks in those ponds?—A. Yes, sir.

Q. And with a shotgun?—A. Yes, sir.

Q. But you do have this rifle?—A. I have this rifle.

Q. Have you any other rifle in your house?—A. No, sir; I have not.

Q. Did you at that time have any other rifle?—A. No, sir; not that I remember of.

Q. Any carbine?—A. No, sir.

Q. Nothing of that sort?—A. No, sir.

Q. You had a shotgun?—A. I had my shotgun.

Q. What kind of a shotgun is that?—A. I had a Winchester pump gun, we call it.

Q. That is a gun that you work just as you do any army gun, is it?—A. No, sir.

Q. How do you?—A. You draw a lever back to throw in the shell and extract it.

Q. That is what this gun here does. You do not draw it back like that? You draw it underneath?—A. There is a lever works underneath. The magazine is in here [illustrating].

Q. The magazine is underneath?—A. Yes, sir; and there is a lever underneath that you work with your left hand.

Q. Work it underneath?—A. Yes, sir.

Q. That is the kind of gun you have?—A. Yes, sir.

Q. That is a shotgun?—A. Yes, sir.

Q. Now, as to your rifle, how does that work?—A. The rifle works with a lever.

Q. In the same way, underneath, or like this one?—A. No, sir; it is not like that. It has a lever underneath.

Q. It is underneath where it works, instead of on top?—A. Yes, sir.

Q. And that is what you call a .45-75?—A. A .45-75.

Q. That means .45 caliber and 75 grains of powder?—A. Yes, sir; I believe so.

Q. Is that this new smokeless powder?—A. No, sir.

Q. That is black powder?—A. Yes, sir.

Q. What kind of a report does that gun make?—A. Well, they call it a cannon.

Q. It has a pretty loud report, hasn't it?—A. Yes, sir; very loud.

Q. And might be mistaken for a .45 Colt revolver, might it not?—A. I think it is much louder than a .45 Colt.

Q. Are not those practically the same in general character, the report of a .45 revolver and a .45 rifle?—A. No, sir.

Q. Do you know the difference between the bullets of the .45 Colt revolver and the .45 Springfield that you speak of? What is the difference?—A. I did not say Springfield. I said a .45 Winchester.

Q. I beg your pardon, I meant Winchester.—A. Yes, sir; I can tell the difference of the bullets.

Q. I mean can you describe it without having the bullets before you?—A. Well, one is a larger bullet. The .45-75 is a much larger bullet than the .45 pistol bullet.

Q. It is not larger in caliber, is it?—A. I do not think so.

Q. Does not .45 mean caliber in both cases?—A. Well, it does sometimes, Mr. Foraker. It does not always mean it.

Q. It does not always mean it?—A. No, sir.

Q. Is there any difference except in the length of the bullet?—A. You mean between the .45 Colt pistol and the .45-75 that I use?

Q. Yes.—A. The bullet is a much bigger bullet—a much heavier bullet. It has more lead.

Q. Its size is larger because it is longer, is it?—A. I could not tell you. I think so.

Q. If .45 means caliber in both cases, then necessarily they would both be of the same diameter, would they not?—A. Not in all cases, sir.

Q. What kind of a hole does that bullet that you fire out of your .45-75 make in a wooden obstruction when it hits it?—A. It makes a big hole in it.

Q. Makes a pretty good-sized hole?—A. Yes, sir.

Q. You could tell that hole readily, could you not, from the small .30 caliber high-power bullet, couldn't you?—A. Surely, sir.

Q. The small .30 caliber high-power bullet goes right in, leaving only a small hole?—A. Yes, sir; what I have seen.

Q. And this bullet that you fire out of your gun makes a much larger hole?—A. Makes a big hole.

Q. You could tell just by looking at the hole from the outside whether it is one or the other, couldn't you?—A. Yes, sir.

Q. Without any trouble?—A. Yes, sir.

Q. Now, you got 40 rounds of that ammunition. What did you do

with it?—A. I took it home, and I believe I put it either on the dining-room table or on the table in the sitting room or hallway; I don't remember what I did with them, but I left them there.

Q. How was that packed up?—A. Twenty rounds in each little package.

Q. You had two packages of 20 rounds each?—A. Yes, sir.

Q. Did you distribute those cartridges out of those packages into any belt or anything?—A. No, sir.

Q. Do you know of anybody else getting any additional ammunition that day?—A. No, sir.

Q. Did you tell anybody why you wanted that ammunition?—A. I don't think I did; I don't remember.

Q. You did not tell Mr. Jagou?—A. No; I did not—I don't think I told him. I may have told him, but I could not tell you, sir; I don't think I did.

Q. Did you tell anybody else?—A. No, sir; I am satisfied of it.

Q. Were you at Mr. Tillman's saloon that afternoon in company with some other man?—A. No, sir.

Q. Nobody?—A. No, sir.

Q. Were you at Mr. Crixell's saloon that afternoon?—A. I may have stopped in there to take a drink, if I took one; but I don't think I was there.

Q. You did not see anybody there in conference that afternoon?—A. If that was the evening of the 13th of August, I was not uptown at all until just when I bought the cartridges.

Q. When you bought the cartridges what time was it you bought them?—A. It was about half past 5 or 6 o'clock, probably.

Q. What prompted you to go and get those cartridges?—A. I was told there might be a raid, and I wanted to be prepared.

Q. That was a week before?—A. Yes, sir.

Q. Did you think it was likely to come off that night?—A. No, sir; except that they said they would shoot up the town after pay day, and I heard that Mrs. Evans had been assaulted, or they attempted to assault her, and this night when I went uptown I thought to myself, "I will go and buy my shells."

Q. Didn't you have any ammunition on hand?—A. I must have had some shotgun shells.

Q. Didn't you have any rifle shells?—A. No, sir.

Q. Until you bought these from Jagou?—A. Yes, sir; I did not have any.

Q. Did you hear this Evans matter talked about that afternoon?—A. I heard it spoken of, what had happened, yes, sir; I heard no particulars of it at all.

Q. Where were you when you heard of that?—A. I was at Mr. Wreford's office.

Q. Mr. S. P. Wreford?—A. Yes, sir.

Q. He had his office in the Wells Building, or the King Building?—A. No, sir; he had it right diagonally across from the Miller Hotel.

Q. Right across Thirteenth street?—A. Yes, sir.

Q. He is a real estate man?—A. Yes, sir.

(At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The committee reconvened, pursuant to the taking of the recess, at 2 o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, and Pettus.

TESTIMONY OF LOUIS R. COWEN—Continued.

By Senator FORAKER:

Q. Mr. Cowen, I do not recall just what the last question was that I asked you before recess, so I will pass to another subject probably. Will you tell me, as nearly as you can, your whereabouts during the whole of that day, Monday, the 13th day of August?—A. On Monday? I generally leave home about 9 o'clock, and business calls me, of course, all around town, particularly on Elizabeth street and around the hotel, and I came home about half past 11. I usually come home to take lunch. I remember taking lunch that day, and sleeping. I generally take a nap in the afternoon. There is nothing doing at that time of the day.

Q. You never take a nap in the afternoon?—A. I always take a nap in the afternoon. I usually stay at home. I woke up and went uptown, it must have been after 4. I walked up as far as the Miller Hotel and crossed the street to Mr. Wreford's office—that is, directly across from the Miller Hotel—and talked to Mr. Wreford, and he asked me if I had heard what had happened the night before. I told him that I had heard something at home, but did not know what it was, and to tell me, and Mr. Wreford told me and we sat there talking about it; and after a little while I saw Doctor Combe and Mr. Evans, both in Doctor Combe's buggy, going down towards the reservation.

Q. You are referring now to the Evans matter?—A. Yes, sir. You asked me to tell you all that happened that day.

Q. That is what you and Mr. Wreford were talking about?—A. Yes, sir. I sat there a while and then walked over to where the buggy was. Doctor Combe had stepped into Mr. Yturria's bank. I left before Doctor Combe got back. I do not remember having done anything or gone any place in particular—probably walked up the street—until I saw this Mr. Jagou, and it must have been about half past 5 or a little later, and I said, "Mike, have you got any of those shells for this gun of mine," because this was an old-fashioned gun and it was hard to find ammunition for it, and he said, "Yes; I have a couple of boxes that I will let you have for a dollar apiece." I said, "All right; I want it; I would like to have it at home." So we went up Elizabeth street and turned at the corner and went down to his place and hunted for these shells, and we found them, and I got the shells and I took them home and I do not know just where I put them. My wife told me she had placed them on the table. We had a little children's party that night. The children came quite early, and my wife was not feeling well, and I had to entertain the children—to assist in entertaining them—probably up to half past 10. I then told my wife that I would go uptown and

bring her a sandwich—bring home a couple of sandwiches and some beer.

Q. You told her, or did she ask you to do that?—A. I could not remember.

Q. Yes.—A. I believe she asked me, now, since you speak of it, "If you are going uptown, get me a couple of sandwiches and a bottle of beer." I said I would, and I walked across to the Leahy Hotel, across the street, and stayed there for an hour or more talking to Mrs. Leahy, at the gate.

Q. It was about half past 10 when you left home, you think?—A. I judge that was the hour, Senator, for the reason—

Q. I only wanted to know.—A. It seems to me I stayed over an hour at Leahy's.

Q. You stayed over an hour at Mrs. Leahy's hotel?—A. Yes, sir.

Q. That is right across Fourteenth street from your house.—A. Yes, sir. I walked uptown then and dropped into the Chinese restaurant.

Q. Where is that?—A. That is across the street. It is in the same building that Crixell's saloon is.

Q. Yes.—A. It is adjoining.

Q. That is immediately opposite the Ruby Saloon?—A. Just opposite the Ruby Saloon. I went in there and said to the man, "John, fix me up a couple of sandwiches while I go and get a bottle of beer." He said, "All right, sir," and I walked across the street to the Weller saloon.

Q. The Weller?—A. Beyond the Ruby Saloon. I went over there to get the beer. I went there for the reason that my wife wanted Schlitz beer, and nobody else keeps it. I walked in there, and as I walked in a man by the name of Porter came in there, a railroad man, and he said, "Let us go back in there and eat something," and I said, "Well, I am hungry enough to eat something, I guess," and we walked back in there and took a sandwich, or something of the kind; I do not remember just what.

Q. Right there, let me get the location of that saloon. The Ruby Saloon and Crixell's saloon are opposite each other on Elizabeth street?—A. Yes, sir.

Q. And the Weller saloon is on the same side of Elizabeth street that the Ruby Saloon is on, but in the square beyond?—A. No, sir; just in the same square, 50 feet beyond, farther up.

Q. Let us look at the map. This building, which is numbered "8" on the map, is, I suppose, the Ruby Saloon, fronting on Elizabeth street?—A. Yes, sir.

Q. It is between Thirteenth and Twelfth streets?—A. Yes, sir.

Q. Now, Weller's saloon is nearer to Twelfth street?—A. Yes, sir; it is within 25 feet of the corner.

Q. It is not on the corner?—A. No, sir.

Q. But within 25 feet of the corner?—A. Yes, sir.

Q. And it runs back to the alley?—A. Yes, sir.

Q. And you stopped first at the Chinese restaurant?—A. If you will permit me, I will show you how I came out.

Q. Yes, certainly.—A. (Indicating on map.) This is my home. I came to Mrs. Leahy's first.

Q. That is, you came right across. Leahy's is right across from your house?—A. Yes, sir.

Q. Then you came down Fourteenth street to Elizabeth?—
A. Across diagonally, this way [indicating].

Q. You went first to Mrs. Leahy's, and you stayed at the Leahy Hotel you think more than an hour?—A. I did.

Q. And you are pretty sure about that time?—A. Yes, sir.

Q. Then you came out the front gate, I suppose?—A. I stayed at the front gate.

Q. You stayed at the front gate an hour?—A. Yes, sir; talking to Mrs. Leahy.

Q. She was out in front, and you stayed there?—A. Yes, sir.

Q. That would make it what time, 11 o'clock?—A. Probably half past 11.

Q. Then from there you went up to what place?—A. To this place opposite the Ruby Saloon [indicating].

Q. What place is that?—A. The Chinese restaurant.

Q. The Chinese restaurant. That fronts on Elizabeth street, and it is the front part of Crixell's saloon, is it?—A. Crixell's saloon is right by the side of it.

Q. Right by the side of it, in the same building?—A. Yes, sir.

Q. How long were you there?—A. I did not go in; I just called to him at the door, and ordered a sandwich.

Q. You ordered one sandwich?—A. Two sandwiches.

Q. Two sandwiches.—A. Then I walked across the street and walked into Weller's saloon, which stands within 25 feet of the corner.

Q. You walked in there?—A. Yes, sir.

Q. And you had something to eat there?—A. I took a sandwich, or something, there; I don't remember now what it was.

Q. You met some one there when you went in there?—A. Mr. Philip Porter.

Q. He is employed by the railroad company?—A. Yes, sir.

Q. In what capacity?—A. He was either the freight cashier, or—he had something to do with the freight office.

Q. And he asked you if you would not take something to eat?—
A. Yes, sir.

Q. And you and he went back and ate something?—A. Yes, sir.

Q. Did you order a meal?—A. No, sir; we just took a sandwich—either cold ham or a ham sandwich, I do not remember which.

Q. And you ate it there?—A. Yes, sir.

Q. At a bar or a table?—A. No, sir; he has a bench; that is, a stand.

Q. A what?—A. A counter, and I ate it there.

Q. You had something to drink with it?—A. No, sir.

Q. Had you been drinking any at all that day, that afternoon or evening?—A. Not any more than usual, sir.

Q. Well, that is rather indefinite. Had you been drinking any at all?—A. I suppose I had taken two or three drinks during the day.

Q. I mean after you had your nap, immediately following your luncheon, you did not take any drink while you were still at home?—
A. No, sir.

Q. Did you take any drink while you were talking to Mrs. Leahy at the front gate?—A. No, sir.

Q. You did not take any drink when you went into the Chinese restaurant?—A. No, sir.

Q. You did not take any drink when you went across to Weller's and took your meal with Mr. Porter?—A. No, sir.

Q. Then you had not drank anything at all up to that time?—A. I do not believe I had drank anything at all.

Q. Then, after you took this, whatever it was you ate, in Weller's, you went where?—A. I came through the restaurant into the bar, and I said, "Give me a bottle of beer."

Q. In what saloon was that?—A. Weller's saloon.

Q. Weller's saloon?—A. Yes, sir.

Q. What did you get?—A. One bottle of Schlitz beer.

Q. One bottle of Schlitz beer?—A. Yes, sir.

Q. Then what did you do?—A. Just as I paid for the beer and put it in my pocket, the shooting commenced.

Q. And do you know about what time that was?—A. It was six minutes of 12 by Weller's time.

Q. Six minutes of 12. What did you do then, when the shooting commenced?—A. I started to run out, and then I changed my mind about it.

Q. And you remained in Weller's saloon?—A. Yes, sir.

Q. How long did you remain there?—A. About two minutes, I think.

Q. Was the firing going on all the while?—A. No, sir; there was firing, and then it stopped.

Q. It stopped?—A. When I came out of Weller's saloon I came down towards the Ruby. It had stopped at that moment.

Q. Before I get to that I want to finish with this. When you heard the firing you started to go out of Weller's saloon, but then you stopped and thought you would remain there; and you remained there, as I understand you, about two minutes?—A. About two minutes.

Q. And during the two minutes that you remained there the firing stopped?—A. There was a lull in the shooting.

Q. A lull; and then you went out on the street and started towards the Ruby Saloon?—A. Yes, sir.

Q. That is only a few feet away?—A. Yes, sir; only a few feet away.

Q. About how far?—A. It is 50 feet between Weller's and the Ruby Saloon.

Q. How much?—A. Fifty feet.

Q. You went into the Ruby Saloon?—A. Yes, sir.

Q. What did you do there?—A. I asked for a pistol, and told them that I wanted to go home; my wife and children were at home, and I wanted to go home.

Q. Had you thought of your wife and children when the shooting commenced, while you were at Weller's?—A. Yes, sir.

Q. Did you think then about going home immediately?—A. I did.

Q. You asked for a pistol. When did you ask for it?—A. I asked it of the boy that was killed, Frank Natus.

Q. Frank Natus?—A. Yes, sir.

Q. What did he tell you?—A. He told me that he had but one, and that was on him. He had it stuck in his apron.

Q. He had one on him?—A. Yes, sir.

Senator WARNER. Have you any objection, Senator, right there, to asking what kind of a pistol that was?

By Senator FORAKER:

Q. What kind of a pistol was that?—A. It was a small nickel-plated Smith & Wesson, evidently about .32 or .38 caliber.

Q. Did you see the pistol, except the handle of it?—A. I saw the pistol; yes, sir. I saw the pistol after the shooting.

Q. You saw it after the shooting?—A. And I saw it when he had it on, before the shooting.

Q. You saw the body after he was killed?—A. Yes, sir.

Q. And you saw the pistol still on the body?—A. Still where he had it; yes, sir.

Q. Were you there when the pistol was taken off of the body?—A. No, sir.

Q. You asked him for that pistol, and he could not give you one; and what did you do then?—A. I did not ask him for that pistol, sir.

Q. Not that pistol, but a pistol, and he did not give you one. What did you do then?—A. I said, "That is all right."

Q. What did you do?—A. I walked to the edge of the sidewalk in front of the Ruby Saloon, and there is a flag pole there.

Q. What?—A. There is a flag pole there, and it had been raining, and the streets were a little muddy, and I reached for that pole, trying to throw myself over there [indicating], and I glanced up towards the post, and just as I looked up I stopped, and I saw shooting from the post.

Q. How much shooting did you see?—A. That would be hard to tell; probably seven or eight shots, probably more.

Q. Where did they seem to be fired from?—A. They were fired from the first quarters, nearest the river.

Q. That is, the barracks on the right-hand side of the gate as you enter the fort?—A. Yes, sir; as you enter the post.

Q. There is the map. You will notice that that barracks which you describe is marked with the letter "D." the barracks to the right of the gate as you enter.—A. That gate is not right; sir.

Q. Here is where you were, down by the Ruby Saloon [indicating on map].—A. Yes, sir; right here.

Q. Right here on the sidewalk, in front of the saloon, and you looked up towards the fort?—A. Here is the place that I saw the shooting [indicating].

Q. Right in front of D barracks. You saw that firing from there?—A. Yes, sir. This gate is not in the right place.

Q. What is the matter with that?—A. Because standing up here I can see these quarters [indicating].

Q. Is there a building here [indicating on map]?—A. Yes, sir.

Q. What kind of a building is that?—A. A little, low, frame building.

Q. About how high?—A. About 15 or 18 feet.

Q. Are there any other buildings on that block?—A. No, sir; down here there is [indicating].

Q. This whole block is covered with buildings, is it not [indicating]?—A. There is a little place in here, and a negro shanty here [indicating].

Q. Is not the whole block practically covered?—A. On this side; yes, sir.

Q. How about this block here, between Twelfth and Thirteenth streets?—A. That is all covered.

Q. On the side towards the river?—A. That is all covered; yes, sir.

Q. What kind of buildings are they?—A. Do you want me to tell what stands here [indicating]?

Q. Are they brick buildings or frame buildings or residences?—A. They are brick buildings; some of them.

Q. So that it is all covered?—A. Yes, sir.

Q. How high are those buildings?—A. I suppose some are 35 feet high.

Q. If you stood in front of Tillman's saloon and looked down towards the garrison, that block is covered with houses, and the barrack building D is correctly represented on the map, you could not have seen it at all, could you?—A. If it was correctly represented; but it is not, sir.

Q. But it is not?—A. I can see through there [indicating]. That gate is wrong. It stands straight out here, and this turns around here [indicating on map].

Q. You think that D barracks ought to go up farther towards where the gate is marked?—A. Yes; you can stand up there and see it.

Q. At any rate, you did look down there and you saw seven or eight shots?—A. I saw about that, sir; I could not tell you for certain.

Q. By the flash of the gun?—A. I was not counting them, sir.

Q. I am only asking what you told us.—A. About seven or eight shots.

Q. Seven or eight shots. I only want to understand you, Mr. Cowen.—A. Yes, sir.

Q. You saw only the flashes?—A. That is all.

Q. You could not see who was doing the firing from that distance?—A. No, sir.

Q. What kind of a night was it?—A. The night seemed to me dark—starlight dark.

Q. Very dark, was it not?—A. Yes, sir.

Q. Had it not been raining?—A. It had prior to that; yes, sir.

Q. Have you not testified that it was a very dark night?—A. I testified that it was dark, sir; very dark, but a starlight night.

Q. Then how long did you stand there? First, I will ask you in what direction did those guns seem to be pointed of which you saw the flashes?—A. I could see the flashes and I could hear the bullets passing by.

Q. They came right over you?—A. They came by me, not over me.

Q. Were they coming up Elizabeth street?—A. Yes, sir.

Q. How close do you think the bullets came to you?—A. Close enough not to sing.

Q. Not to do what?—A. Not to sing. When a bullet is any distance from you, it sings out, but when it comes close to you, it sounds like that [witness imitating hiss of bullet and snapping his fingers].

Q. It was close to you. It did not sing, and the fact that it did not sing was an indication that it was close?—A. Yes, sir.

Q. How many of these bullets were there?—A. I could not tell you.

Q. Did you stand there long?—A. No, sir.

Q. What did you do?—A. I crossed the street.

Q. Where did you go?—A. I went into the Chinese restaurant.

Q. That is where you had been before?—A. Yes, sir; that is where I stopped to order the sandwiches.

Q. That is the Chinese restaurant now connected with Crixell's saloon?—A. It was the Chinese restaurant.

Q. I say it is the same one connected with Crixell's saloon that you spoke about a while ago?—A. Yes, sir.

Q. What did you do when you went in there?—A. I stood at the door and tried to see how much longer they kept on shooting. Looked down and tried to see if I could see anything more.

Q. Where was this shooting?—A. After I crossed the street I did not see any more shooting; I could hear the shooting.

Q. This shooting in front of D barracks stopped after you went across the street?—A. I could not tell you. I went across, and I did not see any more.

Q. Did you run across?—A. I went pretty fast; yes, sir.

Q. What did you do when you went to the Chinese restaurant?—A. I went to the door and stood in the door, leaning out, trying to see if I could see anything, and finally the Chinaman called my attention—said something, that he was closing up; and, in fact, before I got in, he blew out the lights and left me in the dark, and I turned around and walked back where he had a counter, and I struck a door that went into Mr. Crixell's saloon, and from there I walked into Crixell's saloon.

Q. You went into Crixell's saloon?—A. Yes, sir.

Q. Where was the firing about this time?—A. Downtown, near the post.

Q. Did it seem at that time to be practically at the same place where you had heard all of it?—A. No, sir; it was louder.

Q. It was getting nearer?—A. Yes, sir.

Q. And then what did you do after you got into Crixell's saloon?—A. I saw three or four young friends of mine in there, acquaintances, and one of the Crixell boys.

Q. Up to this time you had not taken any drinks since you left home?—A. No, sir; I had not taken anything.

Q. Did you order anything?—A. No, sir.

Q. Did you buy a bottle of whisky at that time from Crixell?—A. No, sir.

Q. Did you not ask him for a half a pint of whisky?—A. I did not.

Q. Did he not hand you a half a pint of whisky?—A. No, sir.

Q. You found Crixell and who else in there?—A. I found Crixell and Martin Hanson.

Q. Martin Hanson?—A. Yes, sir.

Q. H-a-n-s-o-n?—A. Yes, sir.

Q. What does he do?—A. He is a contractor—an architect.

Q. What?—A. An architect.

Q. Then who else was in there?—A. I found Mr. Wise—Mr. Leo Wise.

Q. What does he do?—A. He is a commission merchant.

Q. Yes; go on.—A. I found a young man by the name of Dougherty.

Q. Dougherty?—A. Yes, sir.

Q. What does he do?—A. He is assistant postmaster.

Q. What did you do? You found all these people there, and was Crixell there?—A. Yes, sir; Joe Crixell was.

Q. Joe Crixell? Who was it that testified here?

Senator WARNER. It was Joe Crixell.

By Senator FORAKER:

Q. Yes; he is the one. Did you see his brother?—A. No, sir.

Q. He was not there?—A. No, sir.

Q. Then what did you do?—A. I went in and listened to the shooting just for a second, and I says: "Joe, will you please lend me a pistol to go home? My wife and children are alone, and they will be frightened." Just the same words. He told me that he had a pistol, but that he had loaned it to somebody, and he didn't know who he had loaned it to.

Q. Did he say when he had loaned it?—A. I don't remember whether he did or not. Probably he said.

Q. He did not accommodate you, at any rate?—A. No, sir.

Q. You did not get it?—A. No, sir.

Q. That was the third time that you had asked for a pistol?—

A. The second time.

Q. What is that?—A. The second time.

Q. You asked for a pistol at the Ruby Saloon and at Crixell's?—

A. Yes, sir.

Q. And you were very anxious to go home then?—A. Yes, sir.

Q. What did you do when Crixell did not give you the pistol?—

A. I started to walk out on the street and they would not let me go. In fact, they grabbed hold of me and they tore my shirt.

Q. Who tore your shirt?—A. Some of the boys—Crixell or Mr. Hanson.

Q. What did you want to do?—A. I wanted to go home.

Q. Then what happened?—A. The place was closed; they closed the door.

Q. They closed it up?—A. Yes, sir; and the firing came nearer.

Q. Yes.—A. Then somebody suggested that we should go upstairs, and I said, "It will be a good idea, because in case those soldiers get here, the first place they will break into will be the bar."

Q. You said they were soldiers at that time?—A. Yes, sir; I thought so.

Q. You had not heard anybody or seen anybody or anything, except the firing?—A. No, sir.

Q. Somebody said to go upstairs, and you went upstairs?—A. Yes, sir.

Q. How long did you remain there?—A. Until the thing was over.

Q. How long had it been over before you came down?—A. Probably five minutes.

Q. Five minutes?—A. Yes, sir.

Q. Then what did you do when it was over?—A. Crixell came downstairs and opened up, and we walked out at the front of the building to see what had happened.

Q. Where did the firing occur that you heard?—A. It sounded to me right in front. I thought it was on the street right in front. I thought it was on Elizabeth street.

Q. Did you not hear the firing up at Starck's house, on Washington street?—A. I could not tell where it was, whether it was there or not, because that is just a block beyond, farther over.

Q. It is just a block beyond. You could not tell where it was?—A. No, sir.

Q. But it was all over, at the Starck house and everywhere, when you came out?—A. Yes, sir.

Q. You came out on the street five minutes, you think, after it was over?—A. Yes, sir; five or six minutes.

Q. Then what did you do?—A. I walked out on the sidewalk, and I saw some blood on the ground, and I traced the blood up to the drug store, and then as I was standing there I asked somebody who was hurt.

Q. Tell us right there where the drug store is.—A. I did not go clear up to the drug store. I went up by the bank, and it was dark underneath the porches, and I could not see.

Q. Tell us first where the drug store is.—A. Just beyond Twelfth street.

Q. On Elizabeth?—A. On Elizabeth.

Q. On the same side as the Ruby Saloon?—A. The same side.

Q. Where was it you saw the blood?—A. In front of Crixell's.

Q. Right in front of Crixell's?—A. Yes, sir.

Q. Did you afterwards learn whose blood that was?—A. I did. I heard it was that of the lieutenant of police, Dominguez.

Q. Did you go as far as to the drug store?—A. I did not.

Q. How far did you go?—A. Just past the Merchants' National Bank, which stands on the corner of Elizabeth and Twelfth streets.

Q. Elizabeth and Twelfth. Did you stop right at the corner?—A. I believe I stopped just in front of the bank, because there is where they told me that Mr. Dominguez had been shot.

Q. He was, in fact, shot down near the corner of Elizabeth and Thirteenth, was he not?—A. I suppose so; that is where I learned afterwards he was shot.

Q. You think now you went up to the corner of Elizabeth and Twelfth and stopped there?—A. I went across the street; I cut across the street, because the blood was on the sidewalk, and then I followed the blood.

Q. Did anybody go with you to follow the blood?—A. No, sir.

Q. You went all alone?—A. Yes, sir.

Q. Were there not a great many people in the streets in that immediate neighborhood when you came out of the saloon?—A. No, sir.

Q. You saw this right in front of the saloon?—A. Yes, sir.

Q. And just started off after it by yourself?—A. Yes, sir.

Q. Now, Mr. Cowen, when you got up in the neighborhood of that corner where you say the bank is, what did you do?—A. I was tracing the blood, and somebody came up, I think it was a Mexican or a policeman, and I says, "What is this blood?" He says, "Ygnacio Dominguez is shot," and I says, "Shot, how?" And he says, "Shot in the arm by the soldiers."

Q. Then what did you do?—A. I walked back towards home, towards the Weller saloon.

Q. Did you not go into the Weller saloon?—A. I don't remember whether I did or not.

Q. Do you not remember that you did?—A. Probably I did, sir.

Q. Have you not testified that you went into the Weller saloon after the firing was all over?—A. I don't remember what I testified. I went into three saloons.

Q. You were in Crixell's saloon?—A. Yes, sir.

Q. And after the firing you came out?—A. Yes, sir.

Q. And then you traced this blood?—A. Yes, sir.

Q. This is the first time you have testified to that in your testimony, is it not?—A. I was asked questions and I answered them.

Q. This is the first time you have testified to that?—A. Yes, sir.

Q. Then you went to Weller's saloon, did you?—A. I think so.

Q. Are you clear about that?—A. I think so.

Q. When did you go into Weller's saloon?—A. I do not remember that I went in. They were talking around outside, a crowd, and I think I stood out there.

Q. You did not take any drinks while the firing was going on?—A. No, sir.

Q. Did you take any drinks after the firing?—A. I do not remember whether I took a drink or not; probably I did.

Q. Where did you take it?—A. I think probably I took a drink at Crixell's saloon.

Q. How long did you stay in Weller's saloon?—A. I did not go in the saloon, to my recollection. I believe I went up in front of the saloon, and by that time there was a crowd there, talking about the shooting, and then I went across to Crixell's and took a drink and started to go home.

Q. Now, I want to read from your testimony given before Mr. Purdy?—A. Yes, sir.

Q. There are two or three things that I will read you here. First I will read from page 138 of the printed testimony. I want to see whether this is correct:

Q. How was Elizabeth street as to its being lighted at that time?—A. I remember the night was quite dark, in fact, very dark. It was cloudy weather. It had been raining prior to that and after that. It was very wet weather. It was a very dark night, I remember.

That is correct?—A. Yes, sir; that is what I stated.

Q. That was correct, was it not?—A. Yes, sir.

Q. (Reading:)

Q. After you saw these flashes, where did you go then?—A. I walked across the street to the Chinese restaurant in Crixell's saloon.

That is correct?—A. I do not know about walking. I do not think I walked very slow.

Q. Your first testimony was that you went across the street in a run.—A. Let me explain myself. I can not go very fast; I am crippled—I suffer with rheumatism. About as fast as a man could go over there, between a run and a walk I went over there.

Q. You say you went as rapidly as you could, and here you have said that you walked across. I only want to get which is right.—A. Yes, sir.

Q. Now, passing that, and coming down to the middle of page 138, when the firing had ceased, according to your description, I will read as follows:

Q. Where did you go from Crixell's saloon after you left there?—A. I came out of the saloon and crossed the street to where I was first watching the shooting when I went into Crixell's saloon, and I walked up to Weller's saloon again, where a crowd was talking.

Is that right?—A. Yes, sir.

Q. Now, the point from which you were watching the firing was a point immediately opposite the Ruby Saloon?—A. No, sir; it was opposite Crixell's saloon, where I was watching the firing.

Q. I mean, you came out of the Ruby Saloon and stood on the sidewalk?—A. Yes, sir.

Q. And looked down towards the fort and saw seven or eight shots fired from D Company barracks?—A. Yes, sir.

Q. That is the point from which you watched the firing?—A. Yes, sir.

Q. That is the point, according to this testimony I am reading, to which you returned after you came out of Crixell's saloon?—A. No, sir.

Q. What point was it?—A. I stated that I came out there, and the first thing I saw was blood, and I walked up to the bank, and then came back to the point where I first heard the shooting, which was Weller's saloon.

Q. I understand now; but we did not have the benefit of that in this testimony given before Mr. Purdy. When you gave this testimony you did not tell anything about tracing the blood?—A. No, sir; I answered the questions there.

Q. They asked you where you went? That is the same question that I have asked you?—A. Well, yes.

Q. Now, the next question and answer are:

Q. That was after the disturbance was all over?—A. Yes, sir.

About what time did you go home that night?—A. It was about 1 o'clock.

Q. You were extremely anxious to go home while the firing was going on?—A. Yes, sir.

Q. You made application at two different places for a pistol?—A. I did, sir.

Q. Saying that you wanted to go to your wife and children?—A. Yes, sir.

Q. How did it happen that you did not go home as soon as the firing was over, and it was apparently safe to go?—A. I do not know about apparent safeness. I stayed around there to find out what was the damage done; because everyone would run up and say something had happened, and some one was shot, and so on, and I wanted to know. There was no further shooting, and I did not think at that time there was any further danger.

Q. Did it not occur to you at that time that you wanted to find out whether there had anything happened at your house, to your wife and children?—A. It would have occurred; but I did not believe it had. I did not think it for a moment.

Q. You did not think anything had occurred?—A. I thought all the time that it might have been a fight between the city police and the soldiers. That was my impression, and my idea.

Q. Did you think who might have commenced it?—A. There was no commencement at all. I heard the shooting from the post. It was high-power guns.

Q. The very first shots you heard were of high-power guns?—A. Of high-power guns.

Q. You did not hear any other kind of guns, did you?—A. I did.

Q. What kind of a gun did you hear?—A. I heard two shots from either a Winchester .44 or .45, or a .45 pistol.

Q. Yes.—A. But that was quite a time, and there had been lots of shots fired; and this was fired away from the post, and away from where we were, and it seemed to be in a different street.

Q. About what time were those shots fired?—A. I was upstairs in Crixell's when they were fired.

Q. Upstairs in Crixell's?—A. Yes, sir.

Q. So that when you made this inquiry for the pistol of Frank Natus, and afterwards when you made a request for one at Crixell's—A. Yes, sir.

Q. You had not yet heard any but high-power guns?—A. Yes, sir; I heard those high-power guns, one caliber only.

Q. And at that time you could not have thought it was a fight between the Mexicans and the soldiers unless you thought it was all on one side?—A. I thought they were just shooting up at the police.

Q. You thought they were just shooting up the police?—A. Yes, sir.

Q. Now, what made you think that the soldiers would come out and shoot the police of Brownsville?—A. I did not think they would fire at anybody else. Why should they fire at private citizens? They had not done them any harm.

Q. You had not heard of the soldiers doing any harm, before this Evans incident of the night before, had you?—A. No, sir; I had heard of the Tate affair.

Q. Well, the soldiers had not hit anybody there? The soldier had been knocked down, had he not?—A. Yes, sir; but I heard also that he had pushed these two ladies aside.

Q. You heard that? That was talked about a good deal in Brownsville, was it not?—A. Well, Tate told me so himself.

Q. When had he told you?—A. I think the Saturday before.

Q. That was the 11th?—A. The 11th or the 12th.

Q. You had heard of it before that, had you not?—A. No, sir; probably not.

Q. It occurred on Sunday, the 5th?—A. Probably so; probably it was a week before that.

Q. You had heard that talked about; it was talked about a good deal, was it not?—A. Yes, sir.

Q. Mr. Wreford talked about that a good deal, did he not?—A. He never spoke to me about it.

Q. Mr. Billingsley talked a good deal about that?—A. I didn't hear it.

Q. You did not hear him talk?—A. No, sir.

Q. Now, for some reason you did not feel like going down home immediately after the firing was over?—A. It was not that; I started to go home, and somebody would come up and say something, and then somebody else would say something else, and I just delayed going home.

Q. They finally sent for you, did they not?—A. It seems that they sent for me twice. They did not find me the first time.

Q. Where did they find you?—A. They found me going home.

Q. Where were you?—A. On the other side of the Ruby Saloon; that is towards my home.

Q. How far from the Ruby Saloon?—A. Just crossing—just adjoining; because I was walking down the same side of the street.

Q. You were going down Elizabeth street?—A. Towards my home.

Q. Walking alone?—A. I was going along.

Q. Just walking along?—A. Yes, sir.

Q. Who found you?—A. Judge Parks.

Q. Was anybody with him?—A. No, sir

Q. Was not Mr. Herbert Elkins with him?—A. No, sir; he had been before.

Q. Mr. Parks was alone?—A. Yes, sir.

Q. Did he tell you that he was looking for you?—A. Yes, sir; he says, "Louis, I have been looking for you; your house has been shot into, and the glasses are all broken." I said, "How about my family?" He says, "Your family are over at the Leahy Hotel, and nothing has happened to them."

Q. Then you went home?—A. No, sir. A crowd heard Judge Parks tell me about this, and they started to follow me, and I was in my shirt sleeves—had white clothes on—and when these boys started to follow me I asked them to please stay back, that I was going home, and I wanted to go alone; that in case they fired from the post they would make a good mark, and they would be more likely to be shot at; and at that time Major Combe came up and I asked him to help me to get them to stay back, and he picked up a box there and stood on it and spoke to them about going home and remaining quiet, and the following morning everything would be looked into.

Q. At that time had you seen a patrol pass up the street?—A. No, sir.

Q. When that passed it was afterwards, was it not?—A. I don't know.

Q. Did you not see Captain Lyon's company of forty or fifty men pass through the street?—A. I understood when I got there that they had passed. I did not pay any attention to that.

Q. That is, you understood that they had passed when you got home?—A. Yes, sir.

Q. And it was before this they passed?—A. Yes, sir.

Q. What time was it when you got home?—A. I must have got home a little after 1; probably a quarter past 1.

Q. Was it not considerably past that, Mr. Cowen?—A. I do not know, sir; I could not tell you.

Q. Where did you go when you got home?—A. I went to the Leahy Hotel.

Q. You went first to your own home?—A. No, sir; I went first to the Leahy Hotel, where my family were.

Q. Then from there where did you go?—A. They told me that the house had been shot into, and I got the key and lit a lantern and walked across the street to my house to see what damage had been done.

Q. What damage did you find?—A. I did not make a close examination. I saw that the looking-glass was broken—the plate glass in the wardrobe—and I went in the children's bedroom and I saw the beds all mussed up and the bullet holes all around, and splinters all over everything.

Q. These were in the back rooms, were they?—A. Yes, sir.

Q. How long did you remain there?—A. I went through the place and looked around, probably not so long as I have been in telling it to you, and then I picked up my rifle and loaded it and went across the street.

Q. Did you take that ammunition with you?—A. I believe I took a box.

Q. Where did you go, across the street?—A. I went to the Leahy Hotel.

Q. Where did you stay the rest of that night?—A. I sat up.

Q. At the Leahy Hotel?—A. Yes, sir.

Q. Whereabouts?—A. Out in the yard.

Q. You sat up there all night?—A. Yes, sir; I believe about 4 o'clock—laid down on the doorstep and fell asleep for a moment.

Q. Now I will read you some testimony that was given by Mr. Crixell, Mr. Joseph Crixell, when he was on the stand here a few days ago. He is the man, as I understand it, in whose saloon you were, and I want to see whether what he says agrees with your recollection. I read from page 2492 of the testimony taken before this committee:

Q. Was Mr. Louis Cowen there?—A. Louis Cowen came in there after the shooting started, from the restaurant door.

That is correct, is it?—A. Yes, sir.

Q. (Reading:)

Q. Had you seen Mr. Louis Cowen that evening before he came in then?—A. No, sir.

Q. You had not seen him?—A. No, sir.

Q. He was not in your saloon at all?—A. I had seen him in the afternoon.

Were you in his saloon in the afternoon?—A. No, sir; I did not leave home until after 4 o'clock, but I may have been in later. We ate dinner about 7.

Q. You may have been in Crixell's saloon?—A. I may have been in and taken a drink; yes, sir. Very likely.

Q. (Reading:)

Q. When did you see him first, that night?—A. That night, I don't recollect. Q. He had not been in your saloon that night at all, so far as you can recall?—A. So far as I can recollect; no, sir.

Q. Did you notice whether he was under the influence of liquor when he came in?—A. Well, I couldn't tell you, because when I seen him was exactly when the shooting was going on, and I was excited enough not to pay any attention.

Q. You did not have much time to pay attention to anybody?—A. No, sir.

Q. But you remember that he came in?—A. Yes, sir.

Q. And you remember that he wanted to get a six-shooter?—A. Yes; he wanted to go home.

Q. And did he tell you where he had been?—A. No, sir. He had a package of sandwiches from the restaurant, and he asked me for a half pint of whisky.

Q. He asked you for a half pint of whisky?—A. Yes, sir.

Q. Did you wait on him?—A. Yes, sir. I gave it to him.

Q. That was while the firing was going on?—A. Yes, sir. I just took it out and gave it to him.

Q. You did not stop to collect for it?—A. No, sir. Yes, I believe he did pay me.

Q. Did you give him any beer?—A. No, sir.

Is that testimony correct, or not?—A. It is not correct in so far as my getting half a pint of whisky is concerned; no, sir.

Q. You did not ask for any whisky?—A. No, sir.

Q. I understood you to so testify before.—A. I did not; no, sir. I walked in and asked for a pistol.

Q. And you had not been drinking?—A. No, sir. I had just left my family, where I had been entertaining the children since supper time.

Q. You left about 10.30?—A. Yes; about 10.30.

Q. Another witness has testified on this subject, and I will find his testimony. I think you ought to have a chance to correct it. Now, Mr. Cowen, you testified that you went that afternoon to Mr. Jagou's and bought 50 rounds of ammunition, replenishing your stock?—A. I simply wanted some cartridges, in case I needed them.

Q. You already had some on hand?—A. No, sir; I did not have any on hand.

Q. Before I go on with that; Mr. Herbert Elkins—you know him?—A. I have known him since the shooting.

Q. What?—A. I have known him since the shooting.

Q. You did not know him before?—A. No, sir; nor did he know me before the shooting. I never had seen him.

Q. I read from page 2332 of the testimony before this committee what he testified:

Q. When the firing was all through, you went with Judge Parks to the Tillman saloon?—A. Yes, sir.

Q. To look after Mr. Cowen?—A. Yes, sir.

Q. Judge Parks knew Mr. Cowen?—A. Yes; he did.

Q. Did you find him?—A. Yes, sir; it must have been nearly an hour later.

Q. Were you with him when he found him?—A. No, sir.

Q. Did you hear Mr. Cowen say where he had been?—A. Yes, sir.

Q. Where did he say he had been?—A. Just before the shooting he said that he went out to one of the saloons.

Q. To which of the saloons did he go?—A. I don't know.

Q. To whom did he make that report?—A. He was telling it at the hotel, just after the shooting.

Q. Was it Tillman's or Crixell's saloon?—A. I do not know; it must have been Crixell's. It was not Tillman's.

Q. What was he doing when the firing commenced?—A. I don't know.

Q. Did he say he was in that saloon when the firing commenced?—A. He was not in Tillman's; I think I remember hearing him say that he was in Crixell's, or I heard somebody say he was.

Q. He heard the firing?—A. I do not know what he heard.

Q. Did you hear him say?—A. I did not pay any attention to what he said, because I believed him to be nearly drunk.

Q. Nearly drunk?—A. I believed him to be pretty full, that is the word.

Q. When was this?—A. It was about an hour after the shooting.

Q. Was that before D Company had gone out into the town?—A. That was afterwards, I believe.

Q. Can you tell—did you hear him say, or hear anybody else say, what time he left his house that night?—A. No, sir; if I heard him say, I did not pay any attention to it.

Now, is it true, or not, that you were pretty nearly full?—A. I was not full, nor pretty nearly full, nor anything like it.

Q. That statement is not correct?—A. He states in there that he did not know me, and if he did not know me, how could he tell that I was full; and I certainly went to my family.

Q. That is certainly an argument. He testified that he did not know you until that night, I believe.—A. Yes, sir.

Q. Do you know of anybody else replenishing his stock of ammunition that afternoon?—A. No, sir.

Senator WARNER. Pardon me, Senator, but he stated that he did not replenish his stock.

The WITNESS. I stated that I did not. I did not have any.

By Senator FORAKER:

Q. The word "replenish" may not be correct. Did you hear of anybody else getting an additional stock of ammunition that afternoon?—A. No, sir.

Q. You had some on hand?—A. I did not have any on hand.

Q. I thought you stated to me a while ago, before the recess, that you probably did have some on hand, but you needed some additional?—A. I may have had one or two shells, but I did not know where they were at, and I simply went and bought two boxes of cartridges.

Q. So that you would be sure of having some on hand?—A. Yes, sir.

Q. Do you know of anybody else buying any other ammunition that afternoon?—A. No, sir.

Q. You know Mr. Dennett?—A. I do.

Q. He keeps guns also, does he not?—A. I do not think so.

Q. Do you not think he had a Springfield rifle? Do you not think he has—do you not know he has?—A. I do not know so and I do not think so.

Q. Or some pistols?—A. He may have some pistols.

Q. Do you know anything about him getting any ammunition?—A. No, sir.

Q. You have never testified before, except before Mr. Purdy, have you?—A. No, sir.

Q. You were not called before the court-martial?—A. I did not testify. I was first at San Antonio—at Fort Sam Houston.

Q. But they did not put you on the stand?—A. No, sir.

Q. Whatever the fact may be as to Mr. Dennett having arms, you know nothing about his having any of them?—A. Not any.

Q. You do not know whether he had any guns in his house?—A. No, sir.

Q. You do not know whether his sons had any?—A. No, sir.

Q. You do not know whether he bought any ammunition either before or after the shooting?—A. No, sir.

Q. And you do not know of anybody else getting any ammunition, only yourself?—A. No, sir.

By the CHAIRMAN:

Q. I suppose you have already asked the witness, but I would like to know what kind of ammunition this was that the witness bought?—A. .45-75.

Q. Used in some gun that you have?—A. Yes, sir.

Q. What kind of a gun?—A. It is a sporting rifle; more of a target rifle. It is an old-fashioned gun.

Q. Is it a Winchester?—A. A Winchester; a sporting model.

By Senator FORAKER:

Q. These were not metal-jacketed cartridges, but just lead cartridges?—A. Common lead cartridges.

Q. .45 caliber; and 75 grains of powder to the charge?—A. Yes, sir; I believe so.

Q. That is a pretty big charge, is it not?—A. It is a pretty big cartridge.

Q. Can you tell us how long those lead bullets are?—A. I could not tell you exactly. I suppose the lead bullet is about that long [indicating with lead pencil].

Q. That would be about an inch long, you think?—A. I could not tell you.

Q. Hardly that long?—A. I don't know.

Q. But it is .45 caliber?—A. .45-75. It is larger than the old Springfield cartridge. The cartridge is a bottle neck.

Q. Now, Mr. Cowen, when did you first hear of this Evans incident?—A. The first time I heard of the Evans incident I heard of it at home. I heard my wife say something about it, or she asked me if I had heard anything about Mrs. Evans.

Q. Was there not an account of it in the newspaper the morning of the 18th?—A. I don't know if I saw it. It wasn't Monday morning.

Q. Did you hear of it during the day?—A. If it was published, it would be published on Monday evening, because we have no morning paper.

Q. When you went downtown did you hear people talking about it pretty generally?—A. After I spoke to Mr. Wreford; yes, sir.

Q. What did he say ought to be done about it?—A. I don't remember, sir.

Q. Did you suggest anything ought to be done about it?—A. No, sir.

Q. Did anybody else, that you remember?—A. No, sir; except probably some men did say that this thing ought to be stopped; that the negroes should not outrage white women—what a white man would feel like saying.

Q. You did hear something like that?—A. I don't know.

Q. You did hear it?—A. I am not sure whether I did hear it or not.

Q. Did you hear anybody suggest what they ought to do to put a stop to it?—A. No, sir.

Q. Now, have you told us all that you know about this shooting?—A. I can tell you more about the shooting that actually happened in my house. I told you that I only made a partial examination of it that night.

Q. I will ask you about that in a minute. Have you told us all you know as to who did the shooting?—A. I don't know who did the shooting.

Q. You don't know anything about that?—A. I know some shots were fired from the post, and I believe that the negro soldiers did the shooting.

Q. You know that some of the shots were fired from the upper gallery of D barracks?—A. Yes, sir.

Q. Over from the right of the gate, because you saw them?—A. I saw shots fired from the post.

Q. Those are the only ones you saw the flashes of?—A. Yes, sir.

Q. And that is how you know that shots were fired from the post?—A. Yes, sir; that is how I know shots were fired from the post.

Q. And you have not any doubt in your mind but what the soldiers did the shooting up of the town?—A. None whatever, sir.

Q. You are perfectly sure of that?—A. Perfectly sure; yes, sir.

Q. And you have never doubted that?—A. I have never doubted that for a moment; no, sir.

Q. Now, the next morning you made a careful examination of your house, I suppose?—A. Yes, sir; I made a further examination, a more careful examination.

Q. Well, you have since the firing, whether the next morning or later, made a careful examination, have you not?—A. Since; yes, sir.

Q. The shots seemed to have been fired into your house from the alley, did they not?—A. Yes, sir.

Q. Your house is indicated on that map as No. 2, fronting on Fourteenth street, and not reaching out quite to the alley. Let me invite your attention to that carefully. [Referring to the map.] That is supposed to be your house?—A. Yes, sir.

Q. These shots, as I understand you, were fired from some place in the alley?—A. Some were fired from there; yes, sir.

Q. I want the ones that were fired from there. Where did they go?—A. They were fired from this part of the alley [indicating].

Q. That is from the point right above the figure 2 in the alley?—A. My stable comes in here, and the gate, and they fired over the gate.

Q. Over the gate of your stable?—A. Yes, sir.

Q. That is, they fired from a point between your house and the mouth of the alley next to the garrison?—A. Yes, sir.

Q. Right about at the gate going into your stable, fired from there into your house?—A. Yes, sir.

Q. They did not fire into the stable at all, did they?—A. I could not tell. I don't think they fired into the stable.

Q. How many shots were fired from that point, and where did those shots strike the house?—A. This middle room here contained a door, with a window.

Q. That is the dining room in the rear of the house?—A. Yes, sir; and they fired from over there [indicating], going through the window, shooting out a student lamp, and going into this partition, this side of the door.

Q. That is the partition that leads into the reception room, the middle room of the front rooms?—A. Yes, sir; and went from there into the chiffonier.

Q. That is, one shot did that?—A. One shot.

Q. Do you think the same shot that put out the lamp that stood on the table in the dining room went through the partition and hit the chiffonier in the reception room?—A. Yes, sir; it was the same shot. I traced it.

Q. You traced that, and it was the same shot?—A. Yes, sir.

Q. And that, you think, was fired from a point at about your stable?—A. It had to be.

Q. Where were those other shots fired from?—A. Those other shots were fired into this room [indicating].

Q. That is, from the alley they were fired perpendicularly to the house?—A. Directly through these rooms; yes, sir.

Q. And those shots went clear through, did they?—A. Some of them went through a wall like this, and two shots went through the roof.

Q. They did not any of them go through a wall like that, did they? This wall here towards which you point is about 4 feet thick.—A. I understand.

Q. What kind of a wall was it that they went through?—A. It is a frame building—weatherboarding.

Q. How thick is that wall?—A. Is a frame cottage, lined inside, ceiled.

Q. They went through there. Now, how many were there of those shots?—A. I think six.

Q. Six of those, and the great number of holes are to be accounted for by the fact that the same bullet made more than one hole?—A. I think so; yes, sir.

Q. Some of them made two or three holes, didn't they?—A. Yes, sir.

Q. That is, they went through two or three different partitions?—A. Yes, sir.

Q. And some of them went clear out and struck the rear of the annex of the Leahy Hotel, did they not?—A. Yes, sir.

Senator WARNER. Have you any objection to asking him how many shots struck the house altogether?

By Senator FORAKER:

Q. About how many shots struck the house altogether?—A. About eight, I think.

Q. But they made about twenty holes?—A. I think they made twenty-three holes.

Q. Twenty-three holes, and only about eight shots that struck the house. Well, I believe that is all I care to ask.

Senator WARNER. I have no questions.

Senator FORAKER. That is all.

The WITNESS. Mr. Foraker, before I retire I should like to state that in coming here from St. Louis the other day I picked up the Washington Post and in it there is a sort of yellow-journal statement that I had said that if Mr. Foraker ever came to Brownsville he would be tarred and feathered. It also said there was a porter on the car who refused to make up our beds. I wish to say that all of that is untrue. There is no truth either in the statement that I made that remark, nor is there any truth in the Pullman car incident.

By Senator FORAKER:

Q. You did not make any such remark?—A. No, sir; I did not.

Q. I would be perfectly safe, would I, in going to Brownsville?—A. Yes, sir; and I think if you would you would find that the people would treat you properly.

Q. I greatly appreciate that assurance.—A. Well, sir, I wanted to put myself right.

Q. You did not draw a .45 on the porter?—A. I did not have any.

Q. Well, Mr. Cowen, I thought so little of that story when I saw it in the paper, that I did not remember it.—A. Yes, but my State papers will have that story about me all over the State.

Q. You do not carry a gun when you go traveling around in Christian countries, do you?—A. No, sir; there is \$1,000 fine and a year in jail for it in my State.

Q. That was simply a reporter who did not have the love of truth in his heart or the fear of the Lord before his mind, I suppose?—A. A fellow that wanted to make up a good, catchy story, and get some money out for it.

Q. Do you remember seeing any reporter?—A. I believe there were one or two reporters on the road asked for an interview, and we said we had no statement to make.

Q. You did not give him any statement at all?—A. No, sir.

Q. Have you any idea who this man was?—A. No, sir; I do not know.

Q. Well, we have only good reporters here, so you need not be worried.

By the CHAIRMAN:

Q. Might not some passenger have told a newspaper man that story?—A. That is quite probable.

Senator WARNER. I was not going to ask any questions about that newspaper story, but I am very glad Mr. Cowen has made the statement.

TESTIMONY OF BERNARD L. KOWALSKI.

BERNARD L. KOWALSKI, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Give your name in full?—A. Bernard Louis Kowalski.

Q. What is your age?—A. I am 16 years of age.

Q. Where do you live?—A. In Brownsville, Cameron County, Tex.

Q. How long have you lived there?—A. All my life.

Q. Is your father in business there?—A. Yes, sir.

Q. What is his business?—A. He is the district clerk of Cameron County, and he is in the grain business—broker and grain business.

Q. And you have lived there all your life in Brownsville?—A. Yes, sir.

Q. Do you know where Mr. Cowen was living on the 13th of last August, the night that the shooting up occurred?—A. Yes, sir.

Q. Were you there that night?—A. Yes, sir; I was.

Q. Just state what was the occasion of your being there.—A. Well, sir, I was attending that children's party that they had there.

Q. There were a large number of children there?—A. Yes, sir.

Q. Ranging from what ages?—A. From 6 to 16, I believe.

Q. Up to your age?—A. Yes, sir; up to my age.

Q. One of the Cowen boys is about your age?—A. Yes, sir.

Q. Harold Cowen?—A. Harold Cowen is about my age.

Q. That evening when you were there did you see any of the colored soldiers, and hear them make any remarks?—A. Yes, sir.

Q. If so, state what you saw and what you heard.—A. I was sitting on the window sill there, facing the alley.

Q. The window sill of the Cowen house?—A. The Cowen house, yes, sir; and the window is not far from the fence at all; it would be about 5 feet from the fence; and while I was there, there were some negroes there talking, and they were looking through into the cottage, and I heard one of them say, "They are having a fine time in there, but in about a half an hour they will not have such a nice time;" and just about then Gertrude Cowen, that is Harold Cowen's sister, and some other young lady there—the children of the younger crowd had already been to have their refreshments—then they came and called us older boys and girls to come in, right about that time.

Q. Do you know about how long that was before the party broke up?—A. A very short while before. Just as soon as we had our refreshments we left there.

Q. Do you know about what time it was that the party broke up?—A. I think it was about twenty minutes to 12, half past 11, or somewhere around there.

Q. And then where did you go when the party broke up?—

A. Well, I had my little brother along with me—he is 12 years old—and I took two girls to their homes—Dealva Smith and Nina Smith—took them to their home; that is about a block from Elizabeth street, just out of my way, and then I went right straight home.

Q. Went home?—A. Yes, sir.

Q. Where were you when the firing commenced?—A. I was in my room at home.

Q. And where was your home?—A. My home was on Elizabeth street; it would be about nine squares from the post.

Q. Nine squares?—A. Nine blocks; yes, sir.

Q. So that you could not tell from that distance just where the firing was located?—A. Well, I could hear very well. I sleep upstairs in the front room, facing Elizabeth street, and my room has four windows in it—two to the front, one facing on the south, and one to the north—and the one facing to the south looks right straight down to the post, and I had all the windows open at the time. I was undressing then, when the shooting commenced, and I could tell from where the shooting was coming.

Q. Did that shooting seem to come uptown—that is, from the fort?—A. Yes, sir.

Q. And during the shooting it continued coming up?—A. Yes, sir.

Q. When you heard that shooting, did you make any remark to your mother, or to anyone, as to who it was doing the shooting?—

A. Yes, sir. When I heard the shots, this came up to my mind right away, what I had heard, and my mother was awake, and in the door I said, “Mamma, those are the negroes doing the shooting.” I went to wake my father up. There are seven brothers of us, and I went to wake all the others.

Q. How many brothers?—A. Seven; but there were two younger than I am. My other brothers slept downstairs, and I went to wake them up, because the shooting seemed to be approaching nearer.

Q. Did you tell your mother that remark that you heard made by these colored men?—A. Yes, sir.

Q. Were these colored men that you heard make this remark dressed in soldiers' uniforms?—A. Yes, sir.

Q. That was about what time, as nearly as you can remember—how long before the party broke up?—A. About half an hour, or twenty minutes before.

By Senator FORAKER:

Q. Then you heard this remark about 11 o'clock, I suppose?—A. Yes, sir; a little before—I mean to say a little after 11.

Q. Did you tell anybody that you had heard such a remark, there at the party?—A. No, sir.

Q. You did not tell Mrs. Cowen?—A. No, sir.

Q. Was Mr. Cowen there at that time?—A. I don't remember who was there.

Q. Did you see Mr. Cowen there that night?—A. Yes, sir.

Q. At the party?—A. Yes, sir.

Q. You did not go to look for him—to tell him that you had heard a negro soldier make that remark?—A. No, sir.

Q. Just what was that remark?—A. Well, they said: “They are having a fine time there, but in about a half an hour they will not have such a nice time.”

Q. About an hour from now they will not have such a nice time?—
A. In a half an hour.

Q. In a half an hour they will not have such a nice time?—A. Yes, sir.

Q. That, you think, was about 11 o'clock?—A. Well, about 11 o'clock.

Q. About a half an hour before the party broke up?—A. Yes, sir.

Q. Did that hurry you in getting away?—A. No, sir; it did not.

Q. Where was this man who made that remark?—A. He was out in the alley. There were from four to six men.

Q. Four to six men were together. Did they have their guns?—
A. No, sir; I didn't notice any guns. I did not stay looking at them.

Q. How were they dressed?—A. Well, they were dressed in their uniforms.

Q. You could see their uniforms without any trouble?—A. Yes, sir.

Q. Describe their uniforms, please.—A. Well, they had those blue shirts and their belts, without cartridges.

Q. Did they have on any coats of any kind?—A. Yes, sir; some of them had coats and some had shirts only.

Q. Some had coats and some had only shirts?—A. Yes, sir.

Q. But they all had belts with cartridges in them?—A. No; I did not notice any cartridges in them.

Q. But they had belts?—A. Yes, sir.

Q. What kind of belts were they?—A. Those regular belts that they wear in the parade.

Q. The same kind of belts they wear when they turn out on parade, you mean, don't you?—A. Yes, sir.

Q. You could see those distinctly?—A. Well, not very distinctly, but as they started off, going towards the post, I could notice.

Q. Did they leave there as soon they made that remark?—A. Yes, sir.

Q. Where did they go?—A. They went towards the post. It is about 50 yards from the Cowen house to the post.

Q. You heard that remark distinctly, did you?—A. Yes, sir.

Q. About how far away from you were they?—A. About 6 feet away from me.

Q. About 6 feet away from you?—A. Yes, sir.

Q. They were talking in a loud tone?—A. Yes, sir.

Q. As though they wanted you to hear?—A. I could not say that.

Q. You were in plain view of them, weren't you?—A. Yes, sir; but I had my back to them.

Q. You had your back to them?—A. Yes, sir; when I heard the remark, I looked around toward the alley.

Q. When you heard that remark—had you seen them before you heard the remark?—A. No, sir.

Q. And were they walking by as they made the remark?—A. No; it sounded like some of them wanted to go on. Some said "Come on."

Q. When you looked around were they standing still or walking away?—A. They were standing still.

Q. They were standing still: just standing, looking in at the window?—A. Yes, sir. They were not right at the window. There is a fence about 4 feet from the window.

Q. And they were outside the fence, of course, in the alley, were they not?—A. Yes, sir.

Q. There is no walk out in the alley, is there?—A. No, sir.

Q. It has no sidewalk?—A. No, sir.

Q. How wide is that alley?—A. It is a narrow alley; I could not say how wide it is: I have no idea at all.

Q. Were they in the middle of it, or right by the fence?—A. Right close to the fence.

Q. They were close up to the fence?—A. Not right up to the fence, but a little more close to the fence than in the middle.

Q. They were nearer to the fence than they were to the middle?—A. Yes, sir.

Q. Were they standing in a bunch?—A. No, sir; they were not.

Q. Was there a lamp out in the alley that shed light on them?—A. No, sir; just the light from the house. The house was all lit; all the windows and doors open.

Q. That is, the windows and doors of the Cowen house were open?—A. Yes, sir.

Q. And that lighted up the alley, did it, so you could see?—A. Yes, sir.

Q. And you heard one of those men say what, now?—A. "They are having a nice time in there, but in about a half an hour they will not have such a nice time."

Q. And you did not ask them what they meant by that?—A. No, sir; it did not leave any impression on me at all, because right then they called me, called us, and they were playing the piano, and I just looked around, and we had to go in to have our refreshments.

Q. They called you to hear the piano played?—A. No, sir; to go and have our refreshments.

Q. This was before you had your refreshments, was it?—A. Before we had our refreshments; yes, sir.

Q. This was before you had your refreshments, and just at the moment that he made that remark you were called for refreshments?—A. Yes, sir.

Q. You went right off to the refreshments, then?—A. Yes, sir.

Q. And you did not stop to talk with anybody on the subject at all?—A. No, sir.

Q. And never thought any more of it?—A. No, sir.

Q. Until the firing commenced?—A. Until the firing commenced; yes, sir.

Q. Then you told your mother you had heard that kind of a remark?—A. Yes, sir.

Q. Did you ever tell anybody else anything about it?—A. No, sir.

Q. You have never before testified as a witness, have you?—A. No, sir.

Q. When did you first tell somebody about this, beside your mother?—A. Well, my mother told my father about it. I did not care about being a witness, and I thought that my testimony would not be needed, they had so many better ones than mine. I thought they had better testimony than mine.

Q. You did not attach much importance to this remark, did you?—A. No.

Q. It was not said in an unkind way, was it, or a threatening way?—A. Well, the way I heard it, they said—that is all I heard

"They are having a nice time in there, but in about a half an hour from now they will not have such a nice time."

Q. Had you been about the fort any while the soldiers were there?—A. Yes, sir.

Q. You were in and out, you say?—A. Yes, sir.

Q. Were you in there to see the baseball games, or to fish, or anything of that sort?—A. No, sir; I never went fishing, but I believe I saw a baseball game there once.

Q. While the colored troops were there, I mean?—A. Yes, sir.

Q. You did not see them misbehaving at all towards you, did you, in any way?—A. No, sir; never.

Q. You had no trouble with them?—A. None at all.

Q. And you had no objection to their being there?—A. No, sir.

Q. No prejudice against them?—A. No, sir.

Q. No objection to their coming to Brownsville?—A. I never said anything about that.

By Senator WARNER:

Q. There was something said about the piano playing. Mrs. Cowen gives music lessons, doesn't she?—A. Yes, sir.

By the CHAIRMAN:

Q. What was this—a large party of young people?

Senator WARNER. The evidence is there were thirty or forty children there.

By the CHAIRMAN:

Q. What kind of a party—dancing?—A. They were having some young folks playing, running around the house, and dancing. One of the young ladies was playing the piano.

By Senator FORAKER:

Q. Your father is the clerk of the court, is he?—A. Yes, sir.

Q. Is he here?—A. No, sir.

Q. He has the same name that you have?—A. Yes, sir.

Q. You are junior, are you, is that it?—A. No, sir; I am Bernard Louis.

Q. Was anybody sitting with you in the window when you heard that remark?—A. No, sir.

Q. You were there all alone?—A. Yes, sir. Some of the children were sitting right in front of me.

Q. There was a great clattering and noise, and chattering of tongues, all the while, was there not, going on, with the party?—A. Yes, sir.

Q. There were 36 children in that party, were there not?—A. Yes, sir.

Q. And this room you were in was full of children, was it not?—A. No, sir; it was not quite full. There were some out on the front porch.

Q. Some were out there, but they were scattered all around?—A. Yes, sir.

Q. And they were all laughing and talking and having a good time?—A. Yes, sir.

TESTIMONY OF R. B. CREAGER.

R. B. CREAGER, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Give your name in full.—A. Rentfro B. Creager.

Q. What is your age?—A. Thirty.

Q. What is your business?—A. A lawyer, a practicing attorney.

Q. At what place?—A. Brownsville, Tex.

Q. How long have you lived in Brownsville?—A. Brownsville has been my home for twenty-two or twenty-three years, though I was absent from there for several years during that period.

Q. Where were you then?—A. I was in college for five years.

Q. At what place?—A. At Austin, and at the State University, the Southwestern University.

Q. In that State?—A. Yes, sir.

Q. But Brownsville is your home?—A. Brownsville is my home and has been my home for twenty-odd years.

Q. Do you occupy any official position there?—A. I am United States commissioner there, and also deputy clerk of the United States circuit and of the United States district court for the southern district of Texas.

Q. How long have you been United States commissioner?—A. Five years.

Q. Appointed by the United States judge?—A. Yes, sir; the judge for the southern district of Texas, Judge Burns.

Q. Do you have a large acquaintance at Brownsville?—A. Oh, yes, sir. In a town of that size I think I know practically all of the inhabitants. There are about 7,500 people in the town, I suppose, or 8,000, and excepting the new arrivals, I think there is hardly a man, woman, or child in the town that I do not know.

Q. Do you speak the Spanish language?—A. I do; yes, sir.

Q. That becomes a necessity there, does it not, for a person doing business?—A. Yes, sir; almost so; especially those of us who are the older citizens there; all of us speak it, practically. I speak it practically as well as I do English.

Q. You knew at the time of the battalion of the Twenty-fifth Infantry coming there—the colored soldiers?—A. Yes, sir.

Q. And the change made from the white soldiers to the colored soldiers?—A. Yes, sir.

Q. I will get you to state if in all your acquaintance there, which you say is large, you ever heard any threats made by anyone against the colored soldiers if they came there?—A. Absolutely none, sir. I will modify that in this way, by saying, until after the shooting up of the town on the night of the 13th.

Q. You heard some remarks then?—A. Oh, yes; the talk was common after that.

Q. That was after the shooting up of the town?—A. Yes, sir.

Q. I am speaking of prior to that.—A. Prior to that; no, sir, not a word in the nature of a threat.

Q. Had colored soldiers been stationed there at any time when you were in Brownsville before this Twenty-fifth?—A. Yes, sir. The last time was in the latter part of 1900 or 1901, there was a company of

negro soldiers there. I do not recall, I believe it was the Tenth Cavalry, I will not be sure as to that, however. It was under Captain Ayres. I knew him fairly well. From that time up until the arrival of this battalion of the Twenty-fifth we had white soldiers. That is, from the departure of this company or troop under Captain Ayres, we had white soldiers.

Q. I assume that you have heard of what we are pleased to call here the Tate-Newton incident?—A. I am quite familiar with it; yes, sir.

Q. When you say you are quite familiar with it, what do you mean by that?—A. I mean this, that the incident attracted a good deal of talk and attention at the time, and Mr. Tate came to me with reference to the matter shortly after the occurrence, asking my assistance, stating to me that charges, I believe, had been preferred against him with the collector of customs.

Q. Colonel Vann?—A. Yes, sir; Mr. Vann, and stating his side of the difficulty to me, and asking my advice in general as to what he should do under the circumstances. Then of course I heard it from many other people also.

Q. And you knew about the Evans incident?—A. In the same way. Mr. Evans also came to me, requesting that I go to Major Penrose with reference to the matter.

Q. Did you go to see Major Penrose with reference to that matter?—A. I did.

Q. When was that?—A. That was the morning of the 13th.

Q. And the shooting was on the night of the 13th?—A. The night of the 13th.

Q. You were around the city all the day of the 13th?—A. Yes, sir: I came up from Point Isabel in the morning. I had my family at Point Isabel, on the Gulf coast, 20 miles from Brownsville.

Q. That is a kind of summer resort?—A. A summer resort: and I make it a practice to come up each morning on the early morning train, and return at night.

Q. You were not at Brownsville on the night of the shooting, then?—A. No, sir; I was at Point Isabel that night, and learned of the shooting at about 8 o'clock the next morning, on my arrival at Brownsville.

Q. Now, Mr. Creager, in your own way, just state what you saw and heard generally then of the shooting there, and what you did.—A. My first information of the shooting came to me from a Mexican hack driver. I was accustomed to drive in from the station to my office, passing by the post-office to get my mail each morning, on reaching town, and this morning, on getting into my hack, the driver, in a rather excited manner, began at once to tell me of the occurrence of the night before, saying that the negroes had broken out of the post and had, he told me, killed three men. He was still, and a good many others were, under the impression, I found, up until 9 or 10 o'clock, that more people had been killed than really were killed. As a matter of fact, as you well know, only one man was killed and one wounded; but he informed me, I believe—my recollection now is—that three had been killed, and that several hundred shots had been fired into houses and hotels, and so forth, and so on. On getting uptown, I found the streets full of people and a good deal of excitement prevailing. At the post-office there were probably thirty or

forty people congregated, discussing the matter, and I then got their version of it and discovered shortly afterwards the true facts, or what I have since learned were the true facts, approximately.

Q. Right there, at the time, was there any difference of opinion as to who it was, as to what body of men, not individuals, but as to the body of men who had done the shooting up of the town?—A. Absolutely none. There was no more doubt in the minds of the people of Brownsville then as to who did the shooting than there is now. They knew who did the shooting.

Q. Now just go on from there.—A. After discussing the matter possibly with fifteen or twenty people I finally reached my office. Of course, this delayed me considerably. On reaching my office, I had barely walked in when my telephone rang, and some one, speaking from the quartermaster's office in Fort Brown, requested me on behalf and in the name of the major to come up to see him at once.

Q. That is, Major Penrose?—A. Major Penrose, not saying what for; but, of course, I could surmise. I at once went down, took a hack, and went up to the post, and I found sentries on duty about every 12 or 15 feet along the wall. You know full well the situation of the wall there. I was at first refused admittance, the sentry telling me that they had orders to admit no one. Well, I asked him to call the officer, the white officer in command, and one of the lieutenants stepped out. I don't remember who it was, and I did not know him at the time, but I told him who I was, stated to him that I had been sent for by Major Penrose, and he at once ordered that I be admitted. I drove to the administration building, so called, and had possibly an hour's talk with Major Penrose—I don't remember how long it lasted. Do you wish me to go into this conversation with Major Penrose?

Q. Well, if it was about this shooting up of the town?—A. Oh, yes; entirely. He stated to me first that he had sent for me, as a lawyer and as a Federal official, to ask my assistance with reference to this trouble—this shooting—and with reference to ferreting out the guilty parties; and from that time on, of course, our conversation dealt entirely with the facts of the shooting, as we knew them.

Q. Without attempting to go into the entire details, in that conversation was there any doubt expressed by Major Penrose of the fact that some of his men had done the shooting?—A. In that conversation, yes, sir; in this way—well, he conveyed the impression to me, by his manner and the expressions he would use, that he hated to believe the facts, and he would use this expression, "If my men did this shooting, no punishment would be too severe," or words to that effect, and on two or three occasions using the expression, "If my men did this shooting," or "did this thing;" but toward the latter part of our conversation, especially after Mayor Combe brought in some shells that he had picked up on the streets and showed them to him, he ceased to speak in that way, and then it became simply a discussion as to the best means of getting at the guilty parties in the command. He recognized, in words and in his manner and in every other way, before Mayor Combe and myself left his office that morning, that his troopers had done the shooting.

Q. Before Mayor Combe brought those shells, did Major Penrose say anything to you about having seen shells that Captain Macklin had picked up at the corner or mouth of the alley and the garrison road, between Elizabeth and Washington streets?—A. No, sir; if he

did, I do not recall it, and I think I would remember it. I do not recall his mentioning any shells being picked up by any of his officers. I will say with reference to that, I had heard one of the policemen say that he had seen one of the white officers picking up what he supposed to be shells very early in the morning, at about daylight.

Q. But Major Penrose did not mention that, as far as you remember?—A. As far as I remember, he did not; and I think I am safe in saying he did not—at least I do not recall it at all. While we were talking, and I had been there possibly fifteen minutes to half an hour. Mayor Combe came in and brought with him these shells, and placed two or three of them on Major Penrose's desk. Major Penrose was sitting at his desk and I opposite him, and Mayor Combe walked up and placed the shells on the desk in front of him, and told him, "Well, these are some out of many that were picked up," "that I picked up," or "that were picked up on the streets this morning;" and Major Penrose made a remark to the effect that that was conclusive, or seemed conclusive, or that there could not be any further question—words to that effect; and from that time on there was absolutely no doubt expressed by him as to his men having been guilty.

Q. Did you see Major Penrose after that, at other times?—A. I think not, sir; not for any extended conversation.

Q. Did you see any of those shells that were picked up?—A. I saw thirty-odd of them. I went up to look at them. I hunted up the chief of police first to get them from him. I wanted to be sure that they would be in a safe place. He told me that they had been turned over to the mayor, and were then up in the market hall, or the city hall above the market. I decided I would go down and look at them just to satisfy my own mind as to what they had found, and I found in the possession of one of the policemen up there, in the city hall, a bandoleer—you know what it is, of course, a species of shoulder belt—

Q. Yes.—A. And about thirty-odd shells. There were two or three loaded shells among them.

Q. Are you somewhat familiar with firearms?—A. Well, fairly so, as far as a citizen usually knows about such things; yes, sir. I have hunted a good deal, and own a number of rifles myself, though I am not an expert, by any means.

Q. Did you know what kind of shells they were, those empty shells?—A. They were Springfield army shells. There can not be any question about that. I was entirely satisfied in my own mind at the time that they were, and I still am. I had seen those shells and had used them myself on the target ranges.

Q. At what target range did you use them?—A. At Point Isabel. They had recently established a new range at Point Isabel, or near Point Isabel.

Q. That is twenty-odd miles from Brownsville?—A. Twenty-odd miles from Brownsville, and during the summers, as I stated at the opening, I was stopping at the Point, and frequently stayed over a day or two at a time when business was not pressing in town, and I did, on a number of occasions, go out to the range with friends of mine among the officers.

Q. That is, when the Twenty-sixth was there?—A. When the Twenty-sixth was there. They had the same gun, however; the new Springfield army rifle.

Q. And this ball cartridge which you saw there—this complete ammunition which had not been discharged—was that the Springfield cartridge?—A. Yes, sir; it was the same as the empty shell, except that it was loaded.

Q. Did you notice those shells, as to whether or not, in your judgment, they had been recently fired?—A. Well, I made no careful investigation, but they certainly had not been fired any length of time. They were new shells. I had them in my hands, I suppose every one of them, took them up, looked at them, and replaced them in a paper sack, or bag of some kind, in which they were, together with the bandoleer; took them all out, just looking into them, looked into the pockets of the bandoleer, and then replaced them all in the sack. They impressed me as being shells freshly fired. They were not corroded in any way.

Q. This was after you had met with Major Penrose that you examined these shells?—A. Yes, sir.

Q. The shooting up of the town, of course, created a very considerable excitement?—A. Yes, sir; a very great deal of excitement. The town people were in fear of still further outrages.

Q. How did that fear manifest itself among the citizens, particularly the women of Brownsville?—A. Well, the women remained in their homes. You would not see a woman on the streets at all for several days, or very rarely, and a number of the families left town.

Q. To go where?—A. Some of them went to Matamoros, and my recollection is that some went to Point Isabel; some who were not there already.

Q. After the colored soldiers left, did they then return, and was there the same condition as before, as to people being on the streets, the women and children?—A. Oh; yes, sir.

Q. Mr. Creager, are you reasonably acquainted, and do you know something of the character of the Mexican portion of your people?—A. Yes, sir; I think I am pretty familiar with them.

Q. I will get you to state whether or not it is a fact that the Mexicans had no prejudice whatever against the colored people.—A. They have absolutely none. The Mexican receives the negro on terms of equality. In Mexico itself the negro is received in the higher circles of society. Along the border the negro is received as an equal by the Mexicans, and so far as any prejudice on their part is concerned, there is certainly absolutely none.

Q. Were you present at the meeting that was called on the 14th, with reference to this shooting—a meeting of the leading citizens?—A. I was; yes, sir.

Q. Did you attend the investigation?—A. No, sir; I was, as I told you, spending my nights at Point Isabel, and my days were pretty well filled with necessary office work. Of course I took a great deal of interest in the matter, and assisted in every way I could, but as to attending any formal investigations, I did not.

Q. In all of the time since this investigation began, until now, has anything come to your knowledge or been called to your attention, which leads you to believe that anyone except the members of that troop did the shooting up of the town?—A. There has not, Senator.

Q. No circumstance whatever?—A. Absolutely none.

Q. If any such circumstance had come to your attention, you would have no objection to telling it, and running the facts down,

would you?—A. I most assuredly would not; and in that connection, Senator, I want to say this, that in all human reason it would be absolutely impossible for a conspiracy to have existed in that town, of the magnitude that such a conspiracy would of necessity have been, without its having come to my knowledge. I have business relations with all classes of the people there, from the lowest Mexicans to the best of our people. Many of them are in my office daily. They consult me as a lawyer about the most intimate matters, and it is absolutely impossible that any conspiracy should have existed there without its having come to my knowledge. I say impossible, in all human reason, in a town of that size.

Q. Were you in Brownsville when Lieutenant Leckie came there to make some investigations with reference to this shooting?—A. Yes, sir. My recollection is he came there twice. I saw him there on two different occasions.

Q. Did you go with him on any of those investigations?—A. No, sir; I met him on the street casually, and he told me generally that he was down there, or was sent down there, to make certain investigations, and I learned that he was taking certain measurements in the houses, or some of the houses that had been fired into, and we had some conversation about the character of rifle used by the Mexican soldiers—the Mexican army.

Q. What was that conversation?—A. Well, substantially this: It occurred at night. I met him on the sidewalk. This was for the second time. The substance of his statement was that he had intended going to Matamoros to examine the rifles that the Mexican army were using, but that he had not had time that day, and was going to leave the next morning, and consequently would not have time. He asked me if I knew anything about them, and I told him very little. He asked me if I knew the number of lands in the rifle, and I told him no. I was not positive; and he then stated, "Well, it will not be —;" he named the rifle. I really have forgotten what rifle it is that they are armed with, but he named it, and said, "I understand that this rifle will not chamber our Springfield ammunition, anyway," giving that as a reason for it not being necessary to push that investigation further; that is, that the shell would not fit into the chamber; that the Springfield shell would not go into the chamber and allow a closing of the breach mechanism of the Mexican army rifle.

(At 3 o'clock and 55 minutes p. m. the committee adjourned until Thursday, June 6, 1907, at 10 o'clock and 30 minutes a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Thursday, June 6, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, and Overman.

TESTIMONY OF R. B. CREAGER—Continued.

By Senator WARNER:

Q. Mr. Creager, please take up each of these bullets which are before you, if you will, keeping them separate so that they will not get mixed, and state what you know about each package and its contents. Please read the indorsement on each envelope as you take up the bullet.—A. This envelope, No. 1, has the following indorsement upon it:

This envelope contains rifle ball (marked "M" for identification) extracted from top of old well in F. Yturria's yard. This ball passed through kitchen. (See affidavit of Teofilo Martinez of date January 8, 1907.)

That is my signature. This other envelope I know nothing about. That is indorsed: "Department of Commerce and Labor, Bureau of Standards."

Q. That is the inside envelope?—A. Yes, sir. The bullet is one that I marked myself, and this envelope the indorsement on which I first read is the one that I indorsed.

Q. Please take up the next envelope.—A. This second envelope, marked "No. 2," is indorsed as follows:

This envelope contains rifle ball (marked "XX" for identification) extracted from roof of Wreford's office, on corner Elizabeth and Thirteenth streets, by Cecilio Lingoria and José García Añorga. (See affidavits of Cecilio Lingoria of date January 8, 1907.) R. B. Creager, United States commissioner.

Q. That was signed by you?—A. That was signed by me; yes, sir; and this is the bullet.

Q. That you marked?—A. That I marked; yes, sir.

By Senator OVERMAN:

Q. Did you have any peculiar mark with each of them?—A. I marked each separately. You will notice in regard to each of the bullets, with the exception of one, that they are fractured and broken in some peculiar way. Of course it is conceivable that another bullet might have been broken in the same way and similarly marked, but I am positive as to this.

By Senator SCOTT:

Q. Where did you mark it?—A. You will see it is marked "XX" on the lead, where the steel jacket was broken away.

By Senator WARNER:

Q. Please take up the next envelope.—A. This next envelope is indorsed as follows:

This envelope contains rifle bullet (marked with—

A portion of that word has been torn away, but I know what it is. It is the word "deep"—

With deep "X" across base and "T" near point, for identification). extracted from beam in his residence by Dr. C. H.—

That word was "Thorn." That has been torn off also.

Extracted from beam in his residence by Dr. C. H. Thorn. (See affidavits of C. H. Thorn and W. B. Linton, of date January 7, 1907.) R. B. Creager, United States commissioner.

That is my signature. That has a "T" filed upon the steel jacket and a deep "X" cross mark on the base where the lead shows.

Q. That is the bullet that you marked?—A. Yes, sir.

Envelope No. 4 is indorsed as follows:

This envelope contains "jacket" of rifle ball as extracted by Martin Hanson from wall of Miller Hotel. (See affidavits of Martin Hanson and W. B. Linton, of date January 7, 1907.) R. B. Creager, United States commissioner.

That is also my signature. That is simply the steel or nickel jacket. The lead was entirely emptied out. It was taken from the brick wall. I had it attached to this card, which reads, "Martin Hanson, contractor and builder, Brownsville, Texas," but it has been detached from it.

Q. The steel is gone of that bullet?—A. No, sir; the lead is gone. We were unable to find the lead. That is, Mr. Hanson was unable to find the lead. That was in the interior of a brick wall. The original affidavits should be here somewhere. I sent them.

Senator WARNER. I am not reading these affidavits, but I am just identifying them.

Senator FORAKER. Yes; I understand. I assumed that you just wanted to identify them.

By Senator WARNER:

Q. Proceed with the next envelope.—A. This next envelope is indorsed as follows:

This envelope contains rifle ball marked "L. C." for identification, extracted from brick wall on Fourteenth street by L. R. Cowen. (See affidavits of L. R. Cowen and W. B. Linton, of date January 7, 1907.) R. B. Creager, United States commissioner.

That is my signature. A portion of that bullet appears to be gone. It has evidently struck some hard substance and the lead has been emptied out of the steel jacket, and then doubled back upon the steel jacket, and the steel jacket itself has been twisted and doubled back upon itself. It contains, still, on the forward end of it, a little mortar, or pieces of brick, or something of that character.

No. 6 envelope is indorsed as follows:

This package contains two sections of wall of residence of L. R. Cowen, the smaller containing rifle ball. (See affidavits of L. R. Cowen and Martha Hanson, of date January 7, 1907.) R. B. Creager, United States commissioner.

That also is my signature. Now, this bullet was not marked by me for identification, because it was embedded in the wood at the time I sent it, and I desired to send it in the exact condition in which it was found. This wood is a portion of a beam out of Cowen's house, which was sawn therefrom by Hanson, the city engineer, and a carpenter by trade, and given to me in that condition—that is, the bullet embedded in this wood. It has since been extracted from the wood. The bullet was in this smaller piece of wood.

By Senator SCOTT:

Q. Did that piece belong on here [indicating with pieces of wood]?—A. Yes, sir. You will notice that I marked them each with an "X" on the two faces to show the two sides that went together. I think that is the position in which it was [putting pieces of wood together]. The bullet evidently entered there, striking flat, or almost flat, having previously struck some substance or article that caused it to turn in its flight. It penetrated it in about that position and was located in this block of wood. This space here was filled in with wood [indicating]. That portion is gone. Now, to the best of my recollection, from as much as I could see of the bullet—I could see a portion of the side only—that is the bullet. Of course I can not be positive as to that.

Q. But you are positive that a steel-jacketed bullet was in this wood?—A. Yes, sir.

By Senator WARNER:

Q. That is, that small piece of wood; and it entered the larger piece of wood which you have on the side of which "M. Hanson" is written?—A. This; yes, sir [indicating].

By Senator SCOTT:

Q. What is this cotton lint which is sticking on here?—A. I had it packed in a box with cotton to prevent jarring and breaking when I shipped it on.

By Senator FORAKER:

Q. I would like for you to state what kind of wood it is.—A. I judge it to be pine wood. I am not an expert on the subject, but it looks to be pine wood.

By Senator OVERMAN:

Q. Where was that piece of wood in the house?—A. You will understand, Senator, that I did not see this taken from the house, but Mr. Hanson's affidavit will explain just what portion of the house it was taken from. As a matter of fact, it was taken from one of the upper beams, high up in the room, after having passed through a number of walls and partitions.

By Senator WARNER:

Q. Is that all you have there?—A. Yes, sir.

Q. Now, did you see other shells—that is, shells that were picked up there—exploded shells?—A. Yes, sir; I saw possibly thirty—from thirty to thirty-five.

Senator WARNER. Take the witness.

By Senator FORAKER:

Q. The first one of those bullets that you identified just now I understood you to say was taken from the wall in front of Mr. Yturria's residence?—A. Yes, sir; from the wooden top of an old cistern or well.

Q. Were there two bullets taken from that well?—A. I do not know, Senator; I could not tell you that.

Q. We had a bullet before us two days ago—one of the three first sent to the Senate by the President—which, as I remember, was recognized and identified as having been taken out of the wooden frame

of the well of the Yturria residence.—A. Yes, sir; I do not know whether there was more than one or not. I could not tell you.

Q. You did not yourself take any of these bullets out?—A. No, sir.

Q. These bullets were all gathered up by citizens and brought to you, and they made affidavits before you telling where they got them, and so forth?—A. With the exception of the one that was taken from the Thorn house. I was present and saw that extracted myself. None of the others, however. I saw them in the operations of getting them out—for instance, breaking away bricks in a brick wall to get at the one in the King Building—but I did not see them actually extract any bullet except the one from the Thorn house.

(Witness excused.)

TESTIMONY OF BRIG. GEN. WILLIAM CROZIER, CHIEF OF ORDNANCE, U. S. ARMY.

(The witness was sworn by Senator Scott.)

By Senator LODGE:

Q. General Crozier, there has been some conflicting testimony before this committee as to the length of time necessary to clean an army rifle after firing so that it will pass an inspection directed to discovering whether it has been recently fired. I should like to ask you if you have made any tests to determine that question.—A. Yes, sir.

Q. It is suggested, General, by a member of the committee that before you go on I should ask you what position you now hold. Of course we know.—A. I am Chief of Ordnance of the United States Army; and I have made or caused to be made some such experiments, in my presence, at the request of the Secretary of War and of members of this committee.

Q. Will you kindly state what tests you made, and how they were made?—A. I first had four rifles, which were clean, fired four rounds each over at Fort Myer, and sent immediately in to my office, which they reached within a few hours of the time when they were fired. These rifles I had cleaned in different ways, one of them by using a rag and the brass cleaning rod and the sal soda solution which is prescribed, one by using a rag wet with water alone, and one by using dry rags alone. One of them was left and not cleaned until the next day. In each case the cleaning was done in less than three minutes, except in the case of the one which was left until the next day. That then required very much greater time for cleaning it.

Q. That was the one where twenty-four hours elapsed?—A. Yes, sir; after twenty-four hours elapsed it required from fifteen minutes to half an hour to clean it, with a great deal of rubbing and scrubbing.

By Senator SCOTT:

Q. The experiments were on the new Springfield rifle?—A. Yes, sir.

Q. The one now in use?—A. Yes, sir. The second time, I had these rifles cleaned by using the thong and the brush which is furnished for the purpose.

By Senator FORAKER:

Q. Before you pass from that, let me understand. I understood you had five rifles, or four?—A. Four rifles. They were fired five rounds each.

Q. They were fired five rounds each, four rifles; and in the second experiment you had the same number or rifles?—A. Yes, sir.

By Senator WARNER:

Q. And the same number of shots were fired?—A. They had been fired the same number of rounds, five rounds each, and they were sent to my office on the same day, so that they reached it a few hours after the firing. These I had cleaned by using the thong and brush, and afterwards by pulling a rag through by the thong instead of forcing it through by the cleaning rod, as I had done before. The brush pulled through easily, as of course it always does. There was some trouble in pulling through the rag. It stuck, and in one case we broke one of the thongs. These thongs, by the way, are not strong enough, and will be made stronger hereafter. In the case where we cleaned the rifle by pulling the brush through and pulling the rag through afterwards, and the thong did not break, the whole thing occupied three minutes. In the case where the rag stuck and the thong broke, the rag had to be afterwards pushed out by the cleaning rod, and the time required was about double. The third case was the one in which two rifles were fired at Fort Myer, also five rounds each, and were brought to my office immediately afterwards. Of these rifles I had one cleaned in the darkness, in a room where the light was absolutely excluded, and it was cleaned by drawing the brush which is provided for the purpose, by means of the thong, five times through the barrel, and that is all that was done, and that occupied just one minute.

By Senator OVERMAN:

Q. Was that cleaned sufficiently to pass inspection?—A. Well, it is here, sir; the rifle is here.

Q. Yes; but I am not an inspector of rifles, and you are. Could not you tell me?—A. I will state this about it: In looking through the rifle it is difficult to see whether it has been fired, but I am of the opinion, without having tried it with this particular rifle, that if we were to draw a clean rag through the rifle we would get a little mark on it. It would not come through absolutely clean; but, as far as the appearance of it is concerned, I would not be able to say from looking through it that it had been fired.

By Senator LODGE:

Q. Who cleaned these rifles in your presence?—A. Captain Rice, of the Ordnance Department.

Q. He cleaned them all?—A. He cleaned these last ones I am speaking of, and an employee in my office, a man by the name of Palmer, cleaned the first ones.

Q. Was he a peculiarly expert man?—A. No, sir; he was not. He was not expert at all in this kind of work, except that he was more or less familiar with handling the arm; but he had not cleaned very many.

Q. And he was not as expert as the average soldier?—A. I should say not; no, sir.

Q. You brought those two rifles here?—A. I brought those two rifles, one of which has been cleaned by drawing the brush through it with the thong five times and the other has not been cleaned at all.

By Senator FORAKER:

Q. It has not been cleaned at all?—A. It has not been cleaned at all; no, sir.

By Senator LODGE:

Q. That, of course, is a very hasty method of cleaning?—A. Yes, sir; that is the method that is followed by the soldiers usually on the firing range. They draw the brush through while the deposit in the barrel is still fresh, because it is more easily cleaned in that condition, and when a gun has been left twenty-four hours or more it is much more difficult to clean.

Q. But the maximum time, where the thong brush was used, was six minutes?—A. Yes, sir; that was where the cleaning was done on the same day.

Q. On the same day—that is, within five or six hours of the firing?—A. Yes, sir.

By Senator OVERMAN:

Q. Fort Myer is how far from Washington?—A. I would say about 2½ miles from the War Department.

Q. They were fired there and brought over to that Department?—A. Yes, sir. I have no record of the exact time at which they were fired, but I was informed by the commanding officer that they had been fired the same morning they were sent over.

By Senator LODGE:

Q. The dirt in the barrel does not get very hard much under twelve of fifteen hours, does it?—A. No, sir, it does not; but in addition to the hardening of the residue, the difficulty of cleaning after a few hours results from the fact that there is a slight action of the residue on the metal, and the process becomes more like cleaning a rusty piece of metal.

Q. Now, General, I want to ask you a few questions in regard to the bullets which were brought from Brownsville and subjected to examination under the direction of the War Department. Do you know what led the Department to enter upon that microscopic investigation?—A. Yes, sir. The matter originated with a letter from a man up in Maine. I have the letter with me, if the committee would care to hear it read. Shall I read it?

Q. Yes, if you please.—A. It is addressed to the President, and the heading of the letter has upon it, "Ora W. Knight, M. S." and "State Assayer. Analytical and Consulting Chemist and Microscopist. Member American Chemical Society." I mention this because the man was unknown to me; I did not know what his standing was.

Q. That is the letter head that you are reading?—A. Yes, sir; that is on his letter head. I have not read everything that is on the letter head. This letter reads:

BANGOR, ME., January 14, 1907.

HON. THEODORE ROOSEVELT,
Washington, D. C.

DEAR SIR: Though I have carefully followed the accounts of the affair at Brownsville, Tex., in the daily papers, it was not until a certain article in the Boston Journal of to-day caught my eye that the fact was fully brought home to

me that there was in the possession of the authorities *most valuable evidence* which would show just who the guilty parties were and that the importance of this evidence was not realized or understood by those who had it in their possession. This then is my excuse, and I also consider it my duty to write you. The article in to-day's Boston Journal stated that among certain articles of evidence secured by the Assistant Attorney-General during his recent visit to Brownsville were a number of discharged cartridges which were of a type which is was only possible to use in a Springfield rifle. These cartridges, however, are more valuable as evidence than seems to be realized. To show you just what value as evidence these may prove to have, I trust I may be pardoned for going back some time to refer to a murder case tried in the courts of Maine. This was the case of *State of Maine v. Terrio*, which was tried at the Somerset County supreme judicial court, September term, 1901.

At this trial it was conclusively brought out that the firing pins of certain rifles which figured in the case had individual characteristics, and that these characteristics were imparted to the primers of all cartridges struck by them in precisely the same way that a steel die makes its corresponding obverse imprint on any metal surface it is hammered into. To be brief, the attorneys for the defense did not take any stock in this theory which tended to show that a certain shell found near the body of the murdered man was fired in the defendant's rifle and not in any other rifle owned in that region. I was then connected with the University of Maine and took absolutely no stock in this theory, and was employed by the defense to investigate and if possible disprove the theory. After securing a very great number (over a hundred) of firing pins and inserting these in rifles and firing shells with them I became fully convinced that each firing pin had on its surface irregularities, visible under the microscope, and that these irregularities were plainly impressed on the primers; or, in other words, a given exploded shell could be viewed under the microscope, and the firing pin that exploded it could be then picked from all the others at hand. In other words, after a careful investigation, I was compelled to fully accept the theory which at first I took no stock in and which I was practically hired to disprove if possible. My testimony in court fully substantiates that of the prosecution regarding this theory. In other court cases in Maine since then shells from the scene of the crime, together with rifles of various persons, have been brought and the rifle containing the firing pin that fired the shot readily detected.

Prof. Frank N. Whittier, of Bowdoin College, Brunswick, Me., will most certainly strongly support my assertion that given an exploded shell and several rifles, including the one that fired the shell, and this rifle can be picked out. George W. Gower, esq., Skowhegan, Me., formerly county attorney of Somerset County, will vouch for the truth of this theory.

The point on which hinges the individuality of the firing pins of various rifles is this: The ends of these firing pins are "turned," and irregularities, pits, and "tearings" occur in the knoblike end of the metal. The exact size, shape, and relative distance of these from each other is such that it would be absolutely against the laws of chance to find two firing pins with exactly the same number of pits and irregularities of the same size and shape and the same distance apart. These irregularities are communicated to the shells fired by each firing pin and the soft copper primer is exactly adapted to take a perfect impression of the end of the firing pin, the downward stroke of the firing pin and the back kick of the explosion forcing the metal of the primer into the firing pin so as to leave on the primer a very clear impression of the firing pin.

Of course you see the bearing of this on the Brownsville affair. It seems reasonable to me to suppose that every individual soldier always had assigned to him a certain gun for which he was responsible, and the Army records should show the number of the gun issued to each soldier. Now, if every gun which was at Fort Brown at the time of the affair there is secured and its firing pin removed (of course each firing pin being carefully marked in some way to indicate the rifle to which it belongs) then a careful microscopical examination of the firing pins and comparison with the indented primer of each shell will show which, if any, of the firing pins exploded each shell, and knowing the firing pin and its rifle will lead to identification of its owner.

Prof. N. F. Whittier, of Bowdoin College, and myself put many hours of study on this question, on opposite sides in the legal case previously referred to, and I feel assured that he will verify any claims I may have made. Either he or I can prove conclusively by actual test that this rule of firing pin marking the primer can be depended upon. If this information leads to measures

being taken which will identify any of the participators in the outrage I shall be satisfied.

Very respectfully,

ORA W. KNIGHT.
State Assayer.

By Senator OVERMAN:

Q. Before going further, I would like to return for a moment to the cleaning of the guns, and ask you what, if anything, you did towards the cleaning of the magazines of the rifles, and whether they were necessary to be cleaned; if there was a powder in them?—

A. I did nothing towards cleaning the magazine or the chambers.

Q. Why?—A. Because the effect of the firing would not show back there. The effect of the firing would be apparent only in the bore of the gun.

Q. You mean, then, that it is not necessary to clean the magazine of the rifle after shooting it five times?—A. No, sir.

Q. Or the chamber?—A. No, sir.

Q. It never becomes dirty?—A. Not from the firing. The cartridge case forms a perfect gas check, and nothing gets back to the chamber or the magazine—the breech mechanism.

By Senator SCOTT:

Q. Then, on that same line, why do they open that chamber when inspecting arms?—A. Because the chamber could become dirty from other reasons. It may have dust in it, or too much grease from improper oiling, or the bright parts may become rusty, or it may be otherwise in improper condition.

By Senator LODGE:

Q. That letter that you just read, then, General, was the cause that led to these elaborate microscopic investigations at Springfield?—A. Yes, sir.

Q. Those have already been testified to here, and are in the report of our hearings, so that I shall not go into those now; but I desire to ask you a few questions of more general nature in regard to those bullets which were brought from Brownsville and submitted to the War Department for examination, and which you have examined yourself?—A. Yes, sir.

Q. Could those bullets have been fired from what is known as a Mexican Mauser?—A. No, sir; they could not. I will say in connection with that answer that the examinations of these bullets were mainly made by my direction, and I can only testify as to reports made to me which I received, in connection with a cursory examination of the bullets in my hands, and without instruments, but from the reports made, which are available, and from the examinations made by me, these bullets could not have been fired from a Mexican Mauser, for the reason that they are now larger than the bore of that gun. Therefore they could not have been through it.

By Senator FORAKER:

Q. Which set of the bullets are you testifying about? We have one set of three and one set of six.—A. This refers to all of those bullets which came into my possession from the committee, through the War Department. Of course, I have no way of tracing them.

By Senator LODGE:

Q. Could they have been fired in a Remington or a Winchester?—A. They could not, for the reason that the marks upon them show four grooves, from the corresponding number of lands, while the Remington and Winchester have, the one seven and the other six grooves.

Q. Could they have been fired in the Spanish Mauser?—A. That determination is more difficult, but the conclusion, which has come from an examination of them, is that they could not. Their size is not exactly right, although it is much nearer than in the case of the Mexican Mauser. Also, this slight difference in the size of the bore causes a difference in the length of the land marks made upon bullets fired through each. The larger bore makes a shorter land mark, that is, measured on the length of the bullet. The smaller bore makes the longer land mark; and there is a difference observable between the length of the land mark on these bullets and the length of the land mark on bullets fired through the 7.65 millimeter Mauser, which is, I understand, the one you are referring to.

By Senator FORAKER:

Q. Bullets fired through what?—A. The 7.65-millimeter Mauser, the Mexican Mauser being a 7-millimeter rifle.

By Senator LODGE:

Q. Now, they could have been fired in the Krag rifle?—A. Yes, sir; we are unable to tell from the bullets themselves whether they have been fired in the Krag rifle or a United States rifle of the model of 1903.

Q. Have you seen the shells that were picked up in the streets of Brownsville?—A. Yes, sir.

Q. If these bullets from Brownsville were fired from the shells picked up in the streets of Brownsville, could they have been fired from the Krag rifle?—A. They could not. The shells are too large.

Q. In what way are they too large?—A. They are too long, and also too large in diameter, and they would not go into the Krag chamber.

Q. Then, those bullets brought from Brownsville and those shells brought from Brownsville in combination could only have been fired from the Springfield new model rifle?—A. Yes, sir.

By Senator OVERMAN:

Q. Taking into consideration the reports that were made to you, and your own examination of the bullets and the shells sent to you by the committee, in your opinion as an expert, from what sort of a gun were they fired, and what gun?—A. As an expert, I would have to assume data. If they are taken together, the cartridges and bullets, and considered in connection with each other, they could have been fired from no gun known to me except the model of 1903 Springfield rifle.

Q. In your opinion, from what gun were they fired, taking that into consideration and admitting those to be the facts?—A. Admitting those to be the facts, they were fired from that gun.

Q. Is that your opinion, admitting those to be the facts?—A. Admitting those to be the facts; yes, sir.

By Senator FORAKER:

Q. That is to say, these bullets are apparently just such bullets as you would expect to find fired out of Springfield cartridges?—

A. Yes, sir.

Q. And assuming that these empty shells were the shells that held the bullets, then you would assume that it was a Springfield rifle from which they were fired?—A. Yes, sir.

Q. But, aside from that premise, they might have been fired out of either a Krag or a Springfield?—A. Yes, sir.

Q. They might have been fired out of a Krag carbine, also?—A. Yes, sir.

Q. That is to say, the Krag carbine and the Krag rifle and the Springfield rifle all have the same number of lands?—A. Yes, sir; and the bullet is the same for each.

Q. Each has four lands, and the bullet is the same?—A. Yes, sir; and the bullet is the same.

By Senator OVERMAN:

Q. You are only speaking as to the bullet now?—A. Yes, sir.

By Senator FORAKER:

Q. Certainly, you are speaking only as to the bullet. That is to say, the bullets used in all these guns are steel-jacketed bullets, with lead fillings?—A. That is true, except that the material of the jacket is copper and nickel, and not steel.

Q. It is cupro-nickel, copper and nickel combined?—A. Yes, sir; copper and nickel.

Q. We have fallen into the use of the other term, but we mean cupro-nickel, all the time.—A. We have in the past used some steel jackets which consisted of a sheet of cupro-nickel rolled on a sheet of steel, and that perhaps gave rise to that impression.

By Senator LODGE:

Q. Did I understand you to say, General, that the jacket which is ordinarily called the steel jacket is made of an alloy of nickel and copper?—A. Yes, sir; of an alloy of nickel and copper. But a number of years ago this jacket was made of a sheet which consisted of a sheet of steel on which was rolled a sheet of alloy of nickel and copper; so that both metals were in the jacket.

Q. Now it is only an alloy of copper and nickel?—A. Now it is only an alloy of copper and nickel; yes, sir.

Q. Are any other kinds of bullets used by the troops for any purpose, not steel jacketed?—A. Yes, sir; not jacketed at all, that is.

Q. Yes; not jacketed at all.—A. Yes; we issue some that are not jacketed at all, for special purposes. We have a gallery practice bullet which is not jacketed, and a guard cartridge.

Q. A guard cartridge?—A. Of which the bullet is not jacketed.

Q. That is, with a low charge of powder?—A. They are both used with a low charge of powder.

Q. The same cartridge?—A. Yes, sir.

By Senator FORAKER:

Q. Then you have some dummy cartridges?—A. With the dummy cartridge the bullet is the same, but there is no powder charge; and in

order to very thoroughly distinguish that from a live cartridge, the cartridge case is corrugated, and there are holes bored in it besides.

Q. Did you send one of those to us as an exhibit?—A. I think I did; although it has been a long time since, and I could not be positive about it.

Q. The gallery practice cartridge and the guard cartridge each have a reduced number of grains of powder?—A. Yes, sir.

Q. A reduced charge of powder?—A. Yes, sir.

Q. Do you know how far the guard-cartridge bullet will carry?—A. Of course that will depend on the elevation at which it is fired. I do not remember what we call the range table for the different elevations.

Q. All that is set out correctly in this book issued by the War Department, entitled "No. 1923, Description and Rules for the Management of the U. S. Magazine Rifle, Model of 1903, Caliber .30?"—A. Yes, sir.

Q. All this is the result of careful examination and preparation?—A. Yes, sir.

Q. This is issued officially for the use of the officers of the Army; and everybody that has occasion to handle the guns and ammunition?—A. Yes, sir. Will you kindly tell me the date of the one you have there?

Q. This is dated March 3, 1904.—A. Well, there has been no material change since then.

Q. It is practically the same?—A. Yes, sir.

Q. Now, this says that the charge of powder in the guard cartridge is 15 grains of powder as against 42 or 43, perhaps, in the regular ball ammunition?—A. Yes, sir.

Q. That is correct, as I understand you to say?—A. Yes, sir.

Q. And there is no jacket of any kind on this guard cartridge bullet?—A. No, sir; there is none on the guard bullet.

Q. The intention of that is that it shall be used simply for garrison purposes?—A. Yes, sir; usually in guarding prisoners.

Q. In guarding prisoners, or in guarding a reservation such as that at Fort Brown?—A. The object is very apparent, that we do not care to have the bullets flying to long distances.

Q. The velocity of the bullet from the reduced-range cartridge is only 1,150 feet per second, while the velocity of the bullet from the regulation ball cartridge is over 2,000 feet per second?—A. Yes, sir; about 2,200 feet a second.

Q. That varies a little?—A. Yes, sir. We have been aiming to have it 2,200 feet.

Q. According to this pamphlet the guard cartridge is intended for a range of 100 yards, and has sufficient accuracy for a range of 150 or 200 yards. A range of 100 yards requires an elevation of the sights to 500 yards, and ranges of 150 and 200 yards require elevations of 600 and 700 yards, respectively. That is right?—A. Yes, sir.

Q. So that to make one of these bullets used in the guard ammunition carry a distance of 100 yards, you would raise the sight elevation to 500 yards, and if you wanted it to go 150 or 200 yards, you would raise the sight to 600 or 700 yards, respectively?—A. Yes, sir.

Senator WARNER. That is when you are sighting directly at the object.

Senator FORAKER. Yes; we understand that.

By Senator FORAKER:

Q. And that is the kind of ammunition it is intended that the troops shall have for use in the garrison?—A. Yes, sir.

By Senator OVERMAN:

Q. Raising and lowering the elevation of the sights will make no difference in the distance the ball will carry, will it?—A. If you put your sights at a higher elevation, your gun will be pointed up in the air more, and of course the bullet will go farther.

Q. If it did not hit the target, it would go the same distance, whether the sight was lowered or raised?—A. It would bring up on the ground sooner.

Q. Suppose you just raised the gun up, whether the sight was raised or not, the bullet would go the same distance?—A. If you held it up at the same angle, it would go the same distance.

By Senator LODGE:

Q. It would make no difference in the point-blank range, would it?—A. That term is apt to be loosely used. There is no such thing as a point-blank range.

Q. I was using that term in the common acceptation.—A. The range for that is always selected. For instance, if you do not set the sight for the range of 100 yards, if you keep the sight down, that means that the bullet will rise above the level of your eye, between the muzzle of your gun and the target, and then will come down to it again at the end of the 100 yards.

Senator LODGE. That is what I understood it to mean.

By Senator FORAKER:

Q. Can you tell me how much lead there is in the filling of the ball cartridge?—A. I can not tell you; no, sir; exactly. The weight of the bullet is 220 grains. What proportion of that is lead and what is jacket I do not know.

Q. That is not stated in these regulations. We have had some trouble about it. Can you not take a bullet apart and have it weighed and give us that information?—A. Yes, sir; I could have it ascertained from the factory.

Q. I would like to know also whether that is pure lead.—A. It is not pure lead; no, sir.

Q. What is the composition?—A. It is an alloy of lead and antimony.

Q. What is the proportion of antimony?—A. As I remember, it is about 10 per cent antimony, but I would not be perfectly certain about that.

Q. About 1 to 10?—A. As I remember it.

Q. That is to say, the jacket is of cupro-nickel and the filling is a composition of lead and antimony?—A. Yes, sir. The proportions of the jacket are about 85 per cent copper and 15 per cent nickel, as I remember them.

Q. You will give us definite information on this point, will you?—A. Yes, sir.

Q. You can not tell us then, either, what the steel jacket weights—the cupro-nickel jacket?—A. No, sir. I can tell you the thickness of it. It is two one-hundredths of an inch on the body of the bullet and three one-hundredths of an inch at the point.

Q. It is thicker at the point than on the body?—A. Yes, sir.

Q. And what is the thickness at the base?—A. The same as at the body. It does not entirely cover the base, but is folded in over it.

Q. It is just folded in over it?—A. Yes, sir.

Q. I call your attention to a cartridge. That is a Springfield cartridge. That is split at the nose, so as to exhibit the thickness of the jacket.—A. Perhaps I had better be a little more accurate in my answer. Within a comparatively short time, I do not remember exactly the time, but perhaps a couple of years, the thickness of this jacket over the body has been changed from one and one-half hundredths to two hundredths.

Q. This is two hundredths, is it not, probably? I have not measured it. That is a cartridge of the present manufacture?—A. It seems to be about that. [After further examination of cartridge.] That is a cartridge manufactured at the Frankford Arsenal in December, 1905.

Q. It is the same, is it not, as the cartridge manufactured by the Union Metallic Cartridge Company?—A. In all essential particulars; the same size, shape, weight, and form.

Q. And the same cartridge is manufactured at another arsenal?—A. Not another arsenal, but two other manufacturing concerns manufacture it.

Q. Which two are they?—A. The Winchester Arms Company and the United States Cartridge Company. The Winchester Arms Company are at New Haven, and the Union Metallic Cartridge Company is at Bridgeport, and the United States Cartridge Company is at Lowell, Mass.

Q. I hand you a bullet, No. 1, of the exhibits that have been identified, one of the bullets found at Brownsville and brought here, and ask you to look at the base of that, and state whether that exhibits the thickness of the jacket.—A. (After examining bullet.) This shows the jacket folded over the base.

Q. At one side it is folded over. Is it folded over at the opposite side?—A. At the opposite side it is distorted, apparently by having passed through something, and the exact construction, the thickness of the jacket—

Q. You can not tell?—A. No, sir; I can not tell.

Q. Look at this bullet, Exhibit No. 2 of the Brownsville bullets, and see whether, looking at the base, you observe the thickness of the jacket.—A. The jacket is folded over in this case.

Q. You think it is folded over there also, do you?—A. Yes, sir.

Q. It appears to be much more than two-hundredths of an inch in thickness?—A. Yes, sir; but that is only the apparent thickness. That dimension arises from the jacket being folded over the base.

Q. I wanted to know whether that was the real or only an apparent thickness from being folded over?—A. Yes, sir; that is from being folded over.

Q. But the body of the jacket is two one-hundredths of an inch in thickness?—A. Yes, sir.

Q. What part of the 220 grains would be jacket and what part would be lead?—A. I can not say that exactly, but certainly not over 5 per cent would be jacket.

Q. Not over 5 per cent?—A. Yes, sir.

Q. Is it not almost equal in weight to the lead filling, General?—A. Oh, no, sir; the jacket is very much lighter than the filling.

Q. You examined all those nine bullets, did you, that were brought before us?—A. Casually only, in my hand; not minutely.

Q. You have not examined them with a view of testifying about them?—A. No, sir; not personally.

Q. I understand you to say, however, that you have sufficiently examined them to be able to tell us that you can not tell whether they were fired out of a Krag or a Springfield, simply looking at the bullets?—A. Yes, sir; that is from my personal experience. I prefaced my statement with the statement that I am basing this testimony on reports that have been made to me.

Q. Yes, I know: but you have looked at the bullets enough to testify to that on your own account, have you not? Simply looking at the bullets and nothing else, is not that your opinion, that they might have been fired out of either a Krag or a Springfield?—A. Oh, yes, sir; they might have been.

Q. You can not tell, from just looking at the bullets and nothing else, which gun they came out of?—A. No, sir; I can not; and I do not think anybody can by any kind of an examination they might make.

By Senator OVERMAN:

Q. I want to ask you one question about these bullets. You say 10 per cent of the bullet is what sort of metal?—A. Antimony.

Q. Does that apply to all bullets, or only to the specific ones fired from the Springfield rifle?—A. Lead rifle bullets in general are alloyed with antimony to make the lead a little harder.

Q. Does the same proportion hold only as to those particular ones fired in the Springfield rifle, or does it also apply to those of the Krag-Jørgensen and the Mauser, or is there any difference in the lead?—A. Whether the proportions are the same I do not know, or whether they alloy entirely with antimony. Tin is sometimes used.

Q. Could that be ascertained?—A. By a chemical examination; yes, sir.

Q. It is easily distinguishable whether these bullets here were made by you or by other manufacturers by the proportion of alloy?—A. If other manufacturers use a different proportion, which I do not know.

Q. You think the proportions are the same?—A. I do not think that the proportion is very different, because the result to be obtained is about the same; the object is to get about the same degree of hardness.

By Senator FORAKER:

Q. Can you tell us whether pure lead is used in any of the ammunition used by the Government?—A. It would only be used, if used at all, in the guard-cartridge bullet, or in the reduced-range cartridge bullet. In regard to those I am not certain.

Q. Is there any difference between the reduced-range cartridge and the guard cartridge, or are they not the same?—A. I think there is a difference. I think the bullets are different in weight. That pamphlet, however, will show that.

Q. I know nothing except what is in this official publication, and as I have understood up until now, the guard cartridge and the reduced-range cartridge are the same thing; sometimes one name is applied and sometimes the other. Here is the guard cartridge described on page 46 of this pamphlet. Is not that the reduced-range

cartridge? That is shown in figure 147.—A. No, sir. This one on page 47, figure 148, the gallery-practice cartridge, is a different one, you see. You see the bullet is quite different [indicating].

Q. Well, is not the gallery-practice cartridge intended for practice in the gallery?—A. Yes, sir.

Q. And not for guard purposes?—A. No, sir.

Q. The reduced-range cartridge is the 15-grain cartridge, is it not, as you testified a moment ago when I asked you about it, containing 15 grains of powder?—A. That is the guard cartridge.

Q. Is not that what you call the reduced-range cartridge?—A. No, sir; it is not. The reduced-range cartridge is the one shown on page 47, here.

Q. How many grains of powder are there in that?—A. The proper name for that, by the way, is the gallery-practice cartridge, and that has only 3 grains of powder.

Q. Only 3 grains?—A. Only 3 grains, as against 15 grains in the other.

Q. That is intended for use in a building, is it not?—A. Yes, sir.

Q. And that is what you refer to when you speak of the reduced-range cartridge, what we have been calling the gallery-practice cartridge.—A. Now, perhaps I ought to go a little further than that and say that we have made, although we have not issued it to the service in general, a reduced-range cartridge which is between the gallery-practice cartridge and the regulation cartridge. The reduced-range cartridge is good for practice at 300 or 400 or 500 yards, but not at the extreme range of 1,000 yards, and it was gotten up for use at posts where they did not have the extreme range, and where the country about was thickly settled, and there would be danger in using the regulation cartridge. That cartridge, however, has not been issued to the service.

Q. Inasmuch as that cartridge was not in use in August, 1906, and is not yet issued, I will not ask you about that, as it has no relation to this matter. I call your attention to page 268 of the hearings before this committee. On that and the following pages you will see the reports of the commanders of those three companies as to their ordnance, what was issued to them, and I call your attention to the column to which I point, the right-hand column, under the heading "Caliber .30 rifle, model 1903." I wish you would read what that says, in that right-hand column.—A. (Reading:) "Ball cartridges, reduced range," and then in parentheses, "Guard cartridges." This officer reports himself as having received 650 of these from another officer, that being the total for which he is accountable.

Q. Now, we have understood all the while that that was a 15-grain cartridge. Are we mistaken about that?—A. I will say that, although he is not correct in describing his ammunition, that is the 15-grain cartridge.

Q. That is what the testimony shows it is, I believe. Each of the companies seems to have had the same number issued to it—650 rounds?—A. Yes, sir.

Q. I call your attention now to the description given in the return of the commander of Company C, in that same column. There it is described as "Ball cartridges, reduced range," and the number of rounds is 650?—A. Yes, sir.

Q. Let us see what the record of D Company says. That, you see, says simply, "Guard cartridges, 650 rounds?"—A. Yes, sir.

Q. Now, we have understood all the while—I have, at least—that that was the 15-grain cartridge.—A. I think that is correct, sir; but those cartridges should have been properly described by their official designation of guard cartridges.

Q. Now, that bullet has no jacket on it of any kind, has it?—A. No, sir.

Q. It is just a lead bullet?—A. Yes, sir.

Q. Can you tell us whether that is pure lead, or whether that is a composition of some kind?—A. That is stated in this pamphlet, sir; that the composition is lead and tin.

Q. Lead and tin; in what proportion?—A. That is not given.

Q. Can you get that for us and give it to us?—A. Yes, sir.

Q. I wish you would. Is that composition different from that of the lead in the ball cartridge?—A. The bullet in the ball cartridge is a composition of lead and antimony.

Q. So you have stated. I did not know but what you might want to modify your answer.—A. No, sir.

By Senator OVERMAN:

Q. What cartridge is that which has tin in it?—A. The guard cartridge.

Q. What is the difference between the ball cartridge and the guard cartridge in their use by the troops? Do they have ball cartridge and guard cartridge issued to them?—A. They have regulation service cartridges and guard cartridges both. They are both ball cartridges.

Q. Did these troops at Brownsville have both?—A. They are both ball cartridges as distinguished from blank cartridges, which have no bullets.

Q. Did these troops have both?—A. Yes, sir. They are generally issued. I suppose these troops had both. I can not speak of my own knowledge in regard to their particular possession.

By Senator FORAKER:

Q. I have here these nine bullets, and I wish you would take bullet No. 9, which is one of three that was sent to the Senate by the President when he submitted Mr. Purdy's report. Look at this bullet No. 9, please, and tell us whether you think that is a Springfield bullet.—A. (After examination.) This has the more prominent characteristics of the Springfield bullet. It has been so distorted, however, that it is difficult to say positively. The jacket appears to be such as we have on the Springfield bullet.

Q. Or the Krag, either one?—A. Yes, sir; or the Krag. It has the general appearance, and it has four land marks on it.

Q. Do you observe any abrasion on it?—A. There is some abrasion. There is some foreign substance sticking to it. Whether it gained or lost in weight could be told by weighing it.

Q. That is one of the bullets reported on by Lieutenant Hawkins?—A. Yes, sir.

Q. He reports it, I believe, to be of full length, and, as I understand it, he reports it to be of full diameter, and yet he reports it as weighing only 200.3 grains.—A. Well, sir, I should say it would be difficult to tell accurately what the diameter of the bullet is; it is so distorted.

Q. I would think so, too; but there is no trouble whatever to tell the length of it, is there?—A. The base of it is distorted. You can see that that smooth folding over of the jacket metal is not observable on the base. The base is rough, and it is difficult to tell.

Q. What should be the length of the bullet to be of full length, do you remember?—A. I don't remember, sir.

Q. He gives the full standard length here. I can understand that you need not keep that in your mind, but he gives it as 1.255 to 1.265. That is correct, is it not? That means an inch and 255 thousandths to an inch and 265 thousandths.—A. That is the tolerance in the manufacture, one one-hundredth of an inch.

Q. And he gives the actual length of that as 1.262, which is seven one-thousandths more than the minimum and three one-thousandths less than the maximum.—A. Apparently; yes, sir.

Q. Three one-thousandths of an inch less than the maximum would not be perceptible to the naked eye?—A. Not to the eye; no, sir.

Q. And that is a greater length than the bullet next above described by him, which is 1.235?—A. Yes, sir.

Q. The bullet above weighs 218.4, while this weighs only 200.3.—A. In that case it appears that the longer bullet has the less weight.

Q. Yes; the longer bullet has the less weight.—A. Yes, sir.

Q. And yet the diameter is given here as the same, practically?—A. Yes, sir.

Q. It should be 0.301 to 0.302, but it has—A. The full diameter is the one below it, sir; 0.308 to 0.309.

Q. I am giving the amount above. He gives first the diameter across the lands.—A. Yes, sir.

Q. 0.301 to 0.302.—A. Yes, sir.

Q. This is as it should be, and he gives it as 0.305.—A. Yes, sir.

Q. That is, the diameter is a little greater across the lands?—A. A little less.

Q. A little less—A. Than the prescribed.

Q. And the other diameter, across the groove, he finds is too much deformed to give. Of course that is manifest to the eye. Now, that diameter across the lands is the same diameter, practically, as the one above, is it not—practically 0.300, as against 0.305?—A. There is a difference of 0.005 of course.

Q. That could not be perceived by the eye, could it?—A. It would be impossible.

Q. It would be almost impossible to measure it if we had an instrument of five ten-thousandths with which to measure it, would it not?—A. Well, the measurement would become a little bit doubtful even with instruments.

Q. When it gets down to ten-thousandths—I should think so. Now, can you tell us, after your attention has been called to all these facts in reference to the bullet, what kind of a bullet it is, with any confidence?—A. Only within limits. That is, as far as my examination of it here in my hand is concerned, it might be any one of two or three bullets.

Q. That is, it might be a Krag rifle bullet?—A. Yes, sir.

Q. A Krag carbine or a Springfield rifle?—A. Yes, sir.

Q. Or it might be a Mauser bullet?—A. Yes, sir; as far as I could tell by simply examining it in my hand, it might be a Mauser.

Q. And from the weight given it might be a Mauser, might it not?—A. If I remember rightly, the weight, which is given there, is

still a little more than the weight of the Mauser bullet, but that is only an impression.

Q. The difference between the weight given and the weight ascertained by weighing it is almost inappreciable, is it not—between the Mauser bullet of regular weight and this weight?—A. Although I knew a short time ago, I do not at this moment recall the prescribed weight of the 7.65-millimeter Mauser bullet.

Q. You say the Mexican army is supplied with the 7-millimeter rifle?—A. That is our information.

Q. Are you aware that it has for the past two years been supplied with the 7.65-millimeter also?—A. No, sir.

Q. In part supplied with it?—A. No, sir; I am not.

Q. You have no information of that kind?—A. No, sir. I think the last published information, as furnished by the bureau of information of the War Department, gives the 7-millimeter Mauser as their rifle.

Q. That is, that the whole Mexican army is furnished with only the 7-millimeter rifle, is your impression?—A. Yes, sir.

Q. You have had no information to the contrary?—A. No, sir; I have not.

Q. You do not know that during the last two years they have been issuing the 7.65 millimeter?—A. No, sir; I am not aware of it.

Q. Made for the express purpose of accommodating our Springfield rifle caliber?—A. That I am not aware of.

Q. You have never heard of that at all, until it is suggested now?—A. No, sir.

Q. Now, what change would have to be made in a Krag rifle to accommodate a Springfield cartridge? Just let me call your attention to this rifle that I hand you. That is a Krag, is it not?—A. That is a Krag rifle; yes, sir.

Q. That was furnished by the War Department. That is what our Army carried until 1906. Now, the Springfield cartridge is too long, and has too great a diameter to fit into that chamber.—A. Yes, sir. I have one here. You can try it.

Q. Yes, I understand, but what would it be necessary to do to enable it to fit in there?—A. To get it to go in?

Q. I will ask you, General, if that bore could not be enlarged without any difficulty whatever, so as to accommodate this cartridge?—A. The bore could be enlarged so as to get the cartridge in, but it is still the wrong kind of a cartridge for use in this gun, because you will observe that whereas the Krag cartridge has a rim which brings up against the base of the barrel, and over which the extractor works to get the case out, the model 1903 has no such rim, but has a cannellure.

Q. But would not the extractor work in that cannellure just the same?—A. I do not think this extractor would go down into it.

Q. You never tried it, because you never saw a Krag that was bored out so as to accommodate the Springfield cartridge, did you?—A. No, sir; I did not. It is speculation on my part.

Q. Now let me ask you if there is any difficulty whatever about boring that barrel so as to accommodate this cartridge?—A. I take it to be easily done.

Q. Easily done, and have you never heard of its being done?—A. No, sir; I never have.

Q. Do you not know, General Crozier, that it is actually done by those who have Krag rifles, to accommodate the Springfield cartridge, since the Springfield cartridge was brought into use?—A. No, sir; that is news to me.

Q. News to you, is it?—A. Yes, sir.

By Senator OVERMAN:

Q. Do I understand you to say if the bore was enlarged that that cartridge could be fired from that gun?—A. I do not see any reason why it should not be fired from the gun, sir; but I should suspect that the extractor would not work very well with it, and that it would not be a very workmanlike piece of mechanism when you got through.

By Senator FORAKER:

Q. I should like you to look at the extractor and inform me what practical difficulty there would be about its catching in the cannellure, as in the other case it does over the rim.—A. Well, sir; I could not say that it would not do so. I simply mean to say that it would be a place where I would anticipate difficulty. In the first place, the rim, I think, is larger in outside diameter than the base of the 1903 cartridge.

Q. Let us see if it is.—A. I will try it and see.

Q. You can determine that by simply putting them together, can you not?—A. (After examining the two cartridges.) Yes, sir. You see, as I anticipated, there is a slight difference in the diameter.

Q. A slight difference in the diameter, but is there enough difference to amount to anything?—A. I could not say that it would prevent its working.

Q. You never made any experiment with it?—A. No, sir; never tried that.

Q. Now, General, what is the equivalent in millimeters of our No. .30 caliber?—A. It would run out to several decimal places, but it is about 7.64.

Q. It would be exactly 7.625, would it not?—A. I could compute it for you in a moment, if you will wait. Taking the millimeter in inches as 0.0394, which runs it out to four decimal places, the equivalent of our .30 is 7.614, as I compute it.

Q. That is seven millimeters and sixty-one hundredths?—A. And six hundred and fourteen thousandths.

Q. That would be the exact equivalent of the No. .30?—A. Yes, sir.

Q. I have seen it stated somewhere that it was 7.625. Now I call your attention to these two bullets, General. Notice the lands upon them. You will notice that they extend up farther on the one than they do on the other, apparently, do they not?—A. Both bullets are very much distorted. There appears to be a full-length land on this one and also a full-length land on that one.

Q. And the full-length land on this one extends a little bit farther, does it not?—A. I can not say, sir.

Q. I will ask you to look at the photograph of the two bullets shown at page 2269 and tell me if there is not substantially or almost the same difference in the length of the lands of the two bullets I have shown you and the two bullets given there?—A. I should say not. There is quite a perceptible difference in the length of the lands in this bullet on page 2269.

Q. How much of a difference is that?—A. As I should estimate it, I should say there is nearly a tenth of an inch.

Q. And you would think that the lands on these bullets were practically the same in height?—A. Let us look at them again. I can not see any difference in the length of those lands, sir. There is only one approximately good land left on there that I can see.

Q. You think they are the same, do you, General?—A. Yes, sir.

Q. Now, the 7.65-millimeter gun would accommodate that bullet without any trouble, would it not?—A. I think it would, without difficulty.

Q. Or a 7.62-millimeter, either one?—A. Yes, sir; I think so.

Senator LODGE. Do you mean the bullet or the cartridge?

Senator FORAKER. I am speaking just of the bullet alone. [To the witness.] Now, General, about the cleaning of these guns. You first had four guns fired over at Fort Myer, each gun fired five times?—A. Yes, sir.

Q. And then those guns were brought to your office in the War Department building; I suppose, and you had them there cleaned, some two or three hours after the firing?—A. Yes, sir; a few hours. It might have gone on to four or five hours after the firing, but it was the same day.

Q. Can you tell us just how long it was?—A. No, sir; I can not; because I do not know the exact hour at which they were fired.

Q. Where are those guns?—A. They have been sent back to Fort Myer. They were not preserved in the condition in which they were left by the cleaning.

Q. So we can not have the benefit of looking into those gun barrels to see how effectively they were cleaned?—A. No, sir; I am sorry to say that can not be insured.

Q. Who saw the gun barrels after they were cleaned besides yourself?—A. Captain Rice, of my office.

Q. Did you examine the chamber to see whether or not it was in anyway soiled or dirtied by the firing?—A. Yes, sir; I had the guns in my hand and looked into them for that purpose.

Q. You examine the chamber to see?—A. Yes, sir.

Q. And you observed that there was no dirt of any kind in the chamber?—A. Yes, sir.

Q. None was perceptible at the time you examined them?—A. There was none, sir.

Q. And that was within two or three or three or four hours, as I understand you, after they were fired?—A. Yes, sir.

Q. You never saw them afterwards?—A. No, sir; I never saw them afterwards.

Q. You handed them back to the man who brought them to you?—A. I directed Captain Rice to send them back to Fort Myer, and he sent them back by one of the War Department messengers.

Q. These were guns belonging to the troops stationed at Fort Myer?—A. They belonged at Fort Myer and they were sent to me by the commanding officer.

Q. Who is the commanding officer who sent them to you?—A. Colonel Hatfield.

Q. What troops are at Fort Myer now?—A. Some troops of a cavalry regiment; I am not sure of the number of the regiment.

Q. Was it this Colonel Hatfield of the cavalry regiment who sent them to you?—A. Yes, sir.

Q. Were they the Springfield rifles, such as the infantry carry?—A. Yes, sir; the infantry and cavalry now carry the same guns.

Q. They have precisely the same guns now, haven't they?—A. Yes, sir.

Q. Formerly there was a difference, when we had the Krag?—A. Yes, sir.

Q. Between the Krag carbine and the Krag rifle?—A. Yes, sir.

Q. The rifle was longer?—A. The rifle was longer; yes, sir. Now they have the same guns.

Q. Who brought them over—Captain Rice?—A. No, sir; I did not see the messenger. I do not know who brought them over. I could only guess.

Q. Did you see them before they were cleaned?—A. Yes, sir.

Q. You examined them?—A. Yes, sir.

Q. And you discovered no dirt at all in the chambers?—A. No, sir.

Q. As a result of the firing?—A. No, sir.

Q. Did the barrels seem to be powder stained preceptibly?—A. The barrels had the dull look that comes from firing the smokeless powder. It is a very different appearance, you will understand, from that which came from firing guns with the old charcoal powder.

Q. So I understand. Your regulations here, that you have officially issued, explain that.—A. Yes, sir.

Q. Who besides yourself examined the rifles after they had been cleaned?—A. I examined them and Captain Rice examined them.

Q. You and Captain Rice?—A. Yes, sir.

Q. Any other officer?—A. On one occasion—I think it was on the first occasion—General Garlington was present.

Q. Now, General, would it be very much trouble for you to have these same rifles, or rifles like them, fired five times, and bring them here and let them be cleaned in the presence of this committee?—A. No, sir; that could be done.

Q. That could be done?—A. Easily.

Q. With somebody to examine them after they are cleaned?—A. Yes, sir. I would only say with reference to that, Senator, that it would be necessary to have the time definitely known in order to get them here the same day, in order to have the circumstances the same, the same day that they were fired.

Q. We could do that. I would like to have them here when the officers of the Twenty-sixth are here, and let them inspect them.—A. Yes, sir. There will be no difficulty about it.

Q. It is impossible to do that as to the four rifles with which you made your first experiment?—A. Yes, sir: because there has been no preservation of those rifles in that state.

Q. And it is equally impossible as to the rifles used in the second experiment?—A. Yes, sir.

Q. Then in the third experiment, you used only the two rifles?—A. Yes, sir.

Q. And we have them?—A. They are here now, sir.

Q. And one of them has been cleaned, and the other is just as it was after firing?—A. Yes, sir.

Q. You can leave those rifles with us, can you not?—A. I can do so; yes, sir.

Q. Can you tell us which one has been cleaned and which one has not, and indicate it on the card?

Senator LODGE. One of these says that it has been thoroughly cleaned.

Senator FORAKER. They both say they were thoroughly cleaned before firing, as I understand it. Let me see of that is not what it says. It says, "This rifle was thoroughly cleaned and fired five shots with service ammunition."

A. The reading on this other tag is identical.

Q. So far as the card is concerned, you can not tell which rifle has been cleaned and which has not been cleaned. Of course, anybody can tell by looking at the bore?—A. Yes, sir.

Q. I ask you to look into the bore and tell me which one has been cleaned, so we can mark it, or which one has not been, either one. I have an idea which one is cleaned and which is not, but I want your testimony instead of mine.—A. (After examining the two rifles.) This one has not been cleaned.

Q. And this one has been cleaned. Let us mark this one.—A. The number of the rifle will tell you.

Q. If you will just mark it "cleaned."

Senator WARNER. Put the number of the rifle down.

The WITNESS. No. 198263 is the one which has been cleaned.

By Senator FORAKER:

Q. Now, mark that "This rifle clean."—A. Had not that better appear in my testimony, because if I put it on this card it may look as though it was put on at the time of cleaning.

Senator FORAKER. It will appear in the testimony.

Senator WARNER. Put the number of the gun in the testimony.

Senator FORAKER. The witness testifies to the number of the gun.

The WITNESS. 198263.

By Senator FORAKER:

Q. That is the gun that has been cleaned?—A. Yes, sir.

Q. Will you just put on the card there, General, a cross or something, so that we will not have to look at the number.—A. I want it to appear, however, that it is only my observation now, this testimony that it has been cleaned, and not from having marked it before.

Q. Those guns were examined after they were cleaned, in all cases, by only yourself and Captain Rice, except possibly in one instance General Garlington was present and looked at them?—A. Yes, sir.

Q. And they were cleaned to your entire satisfaction, to the entire satisfaction of all of you?—A. Yes, sir.

Q. Did you clean them with reference to their standing an inspection such as guns are subjected to at the regular inspections in the service?

Senator WARNER. That is, with reference to the powder stains.

A. No, sir; I cleaned them only with reference to the possibility or otherwise of seeing whether they had been fired since they were last cleaned.

By Senator FORAKER:

Q. Whether or not they had been fired. You had no other object than that?—A. That is all.

Q. But you did undertake to clean them sufficiently to make it clear that there were no evidences of firing left?—A. Yes, sir; exactly, sir.

Q. So that if there should be any evidences of firing left the cleaning would not have been thorough, would it?—A. That is undoubtedly the case.

By Senator OVERMAN:

Q. They were cleaned so they would pass an ordinary inspection?—A. An inspection for the purpose of seeing whether they had been fired. They may be inspected for various purposes—inspected to see whether a man keeps the magazine of his rifle clean, or to see whether he lets dust get into the receiver.

By Senator FORAKER:

Q. But to be cleaned so as to pass inspection to determine whether they had been fired, all stains of powder would have to be removed from the barrel?—A. Yes, sir.

Q. And if there were any stains in the chamber, they would have to be removed, too?—A. Yes, sir; if there should be stains from firing, which there would not be, however.

Q. What is that statement?—A. I say, if there were any stains in the chamber produced by firing of course they would have to be removed; but there would be no such stains, because firing does not make any.

Q. That is your experience?—A. Yes, sir.

Q. Have you ever served in the line since the new Springfield was issued?—A. No, sir.

Q. You have never been in command of troops—you have been on staff duty all the while?—A. Yes, sir; since the issue of this rifle.

Q. I ask you, so that it will appear in the record. Was that the case with the Krag?—A. Yes, sir.

Q. That there were no powder stains in the chamber, from firing?—A. No, sir.

Q. No matter if you fired the gun a hundred times?—A. Unless there should be a defective cartridge case. We sometimes would have that.

Q. That is, the shell, as we call it?—A. Yes, sir. Sometimes the primer, which is of soft metal, would be pierced, and powder would blow back through the hole thus made. That, of course, is a defective condition.

Q. Now, would it change your opinion any to know that men who handle these guns, and who have fired them on the target ranges, have testified here that from firing even one shot there is always more or less of stain in the chamber as well as in the barrel?—A. I should say that their observation was entirely different from my own, of the same circumstance.

Q. To what extent have you had experience with the firing of either the Krag or the Springfield?—A. I have served with troops in the field armed with the Krag, and I have fired the gun considerably myself—not a very great amount.

Q. And you never found any powder stains at all in the chamber?—A. Never observed any powder stains in the chamber: no, sir.

Q. And when you came to inspect a gun you never expected to find any powder stains in the chamber?—A. No, sir.

Q. Is it or is it not likely that in cleaning one of these guns the chamber would become soiled from the water, if water should be used, getting it in the barrel?—A. That is quite possible, sir.

Q. Is not that almost inevitable?—A. It is so likely that we prescribe a method for avoiding it, which is to plug the rear, plug the chamber.

Q. You prescribe the plugging up, do you not, of the lower end of the barrel?—A. Yes, sir.

Q. The bore?—A. Yes, sir.

Q. So as to prevent the water or oil or any other fluid substance from escaping, if it be used?—A. Yes, sir.

Senator LODGE. While we are on that subject I should like to have the Senator refer me to the testimony about the chamber being powder stained.

Senator FORAKER. I know it was testified to repeatedly.

Senator LODGE. By whom?

Senator FORAKER. By soldiers who had the guns and cleaned them.

Senator LODGE. Do you mean by soldiers of the Twenty-fifth?

Senator FORAKER. Soldiers of the Twenty-fifth and, I think, soldiers of the Twenty-sixth, also.

By Senator OVERMAN:

Q. I understand you in the case of a defective cartridge shell the chamber would become soiled sometimes?—A. It might, sometimes: yes, sir.

Q. Can you state proportionately how often that might happen in the usual use of guns; that is, as one to four hundred or one to five hundred, or what the proportion is?—A. It is very rare. I should say certainly not once in five hundred times. That is just a rough guess, however. It is very rare.

By Senator FORAKER:

Q. The man who cleaned the guns that were used in the first experiment was a Mr. Palmer, so I understand you?—A. Mr. Palmer: yes, sir.

Q. What is his first name?—A. I don't remember. He is an employee of the Ordnance Office of the War Department.

Q. Is he in the United States Army service?—A. He is a civilian employee of the War Department.

Q. And you said he had no expert knowledge about cleaning guns?—A. No, sir; he does anything of that sort when we have it to do in the Ordnance Office here. Sometimes guns and pistols are sent to us and they have to be cleaned, or some little thing has to be done, and he does it; but he is a carpenter by trade, not an armorer.

Q. I suppose you knew you were going to make this experiment, and made all preparations?—A. Yes, sir.

Q. And you commenced to time the man from the time he started to use the instruments in the bore of the gun?—A. Yes, sir; preparations were carefully made beforehand, so that the time does not include anything necessary to make preparations.

Q. It does not include anything whatever except to clean the bore, in the way you have indicated?—A. Yes, sir.

Q. Now, who did the cleaning of the guns that were used in the

second experiment?—A. That may have been Palmer or Captain Rice. They were both present. I have forgotten which one handled the guns. It was done under the observation of all of us.

Q. And in the third experiment?—A. In the third experiment Captain Rice actually handled the guns.

Q. And we have the gun now that Captain Rice cleaned?—A. Yes, sir. This was the third experiment that I saw, Senator. It was really the fourth experiment. It slipped my mind, because I did not see that. The third experiment was very similar to the fourth experiment; that is, two rifles were fired and were brought over, and were cleaned there by Captain Rice, or one of them was cleaned by the Captain or under his direction. The exact circumstances of that cleaning I am not aware of, as I was not present.

Q. Do you know where the two guns are?—A. I don't know. They were sent back.

Q. The guns were returned to Fort Myer?—A. Yes, sir.

Q. Have you ever known of an enlisted man in the service being timed as to the cleaning of a gun; and if so, how long it took him?—A. I never have known of a case.

Q. Have you ever heard of anyone testifying to cleaning a gun in such time as you indicated a gun can be cleaned in, even as to the barrel of the gun?—A. I don't remember any such testimony. I have read in the newspapers certain testimony that has been given before your committee here.

Q. Did you read any of the testimony given before the Penrose court-martial on that subject?—A. No, sir; I did not read that testimony.

Q. Are you not aware that the judge-advocate who conducted that case—Captain Hay, I believe, was it not—is that his proper title, judge-advocate?—A. Judge-advocate.

Q. Are you not aware that he called a sergeant from the Twenty-sixth Infantry and had him testify on that subject?—A. No, sir; I am not aware of that. I have no recollection of having read anything in connection with the cleaning of a gun. I read no testimony before that court in connection with the cleaning of guns.

Q. Let me read you what he said. I read, at page 531 of the testimony given at the Penrose court-martial:

Q. Please give your name, your rank, and your present station.—A. Earl M. Gebhardt; first sergeant Company F, Twenty-sixth Infantry.

Q. Do you know the accused?—If so, state who he is.—A. Yes, sir; Major Penrose.

Q. How long have you been in the service?—A. Fifteen years, sir.

Q. Have you ever been in active service?—A. Yes, sir.

Q. Where and when?—A. Philippine Islands, 1898, 1899, 1900, 1901, 1902, and 1903.

Q. What arms have you used in your service?—A. The old Springfield carbine, caliber .45, and the Springfield Long Tom—that is, the rifle—caliber .45, Krag-Jørgensen, and this new Springfield rifle.

Q. You are familiar with the present rifle used—the so-called Springfield rifle?—A. Yes, sir.

Q. Does the present Springfield rifle require an armrack in anywise different from that required for the Krag?—A. Yes, sir; requires a shorter one.

I read that to show his experience in the handling of guns, and the length of his service as a soldier, and the character of that service. Now, I will pass over that part of his testimony which relates to

something else, and come to that which relates to cleaning. I read now from page 532, about the middle of the page:

Q. What implements are generally used in cleaning a Springfield rifle?—A. Usually the brass cleaning rod is supplied by the Ordnance Department.

Q. Are any other implements ever used?—A. There is a thong and a wiping brush carried in the butt of the piece.

Q. Have you ever fired black powder in any of the various service rifles that you have just mentioned?—A. Yes, sir.

Q. What kind of powder is contained in the service cartridge to-day?—A. Smokeless powder.

Q. Is there any difference in the fouling of guns by the use of black and smokeless powders?—A. Yes, sir; there is quite a difference. The black powder fouls easy and is hard to clean; the smokeless, it takes more shots to foul it, and it is easier to clean on the start, but it takes three or four days to get it all out—to thoroughly clean the piece.

Q. How many shots are required to foul the bore of the present rifle?—A. One will slightly foul it, but it will take 8 or 10 shots to foul it so it is hard to clean.

Then he testifies about another matter, and I do not care to take up time with that. I now read from page 533:

Q. How long would it take to clean the bore of a rifle properly after having been fired, say, ten to twenty times, with any implements?—A. At least twenty minutes.

Q. You couldn't remove the powder stains inside of twenty minutes, say?—A. It couldn't be; no, sir.

That was his testimony. And at least eight or ten men, I think I may safely say, of other commands have testified here to substantially that same effect; and practically all the members of the Twenty-fifth Infantry, who were supplied with these guns, testified to the same effect. That does not change your opinion at all as to the length of time required for cleaning the rifle?—A. No, sir.

Q. Let me ask you what command you were connected with in the field service?—A. My last field service was on General Chaffee's staff in the Peking relief expedition. Before that I was on General Schwann's staff in the campaign in the southern part of the island of Luzon in the Philippine insurrection.

Q. When were you in the immediate command of troops last?—A. I have not been in the immediate command of troops since 1879.

Q. Since 1879?—A. Yes, sir.

Q. Was the Krag rifle used in the Government service then?—A. No, sir; the old Springfield.

Q. What rank did you then hold?—A. Second lieutenant.

Q. And you were not in command of a company?—A. I served in the field in command of a portion of my company.

Q. Of a portion of your company?—A. Yes, sir.

Q. But that was the old Springfield rifle, using black powder?—A. Yes, sir; very different material.

Q. And your experience with that would not be of any benefit as to these new rifles?—A. No; it would be of no value.

Q. It would be no criterion?—A. No, sir.

Q. So that since high-power rifles have come into use in the service you have not been in command of troops in the field, and you have had no occasion personally to make an inspection of guns, to see whether or not they were clean enough to pass such inspections as officers in the service are expected to make?—A. No, sir; I have not.

Q. Captain Rice, whom you speak of, is connected with the Ordnance Department, is he?—A. Yes, sir.

Q. How long has he been in the Ordnance Department?—A. About nine or ten years.

Q. And in what capacity?—A. He has served at Sandy Hook proving ground and served at the Manila ordnance depot.

Q. The Sandy Hook proving ground is for heavy ordnance, coast artillery, is it?—A. Yes, sir.

Q. And where else?—A. He served at the Manila ordnance depot, as I have also, where the duty is to supply and look after all the arms used in the Philippine Islands. At present he is on duty in my office.

By Senator LODGE:

Q. At the Manila depot you supply every kind of arm?—A. Every kind of arm.

By Senator FORAKER:

Q. Every kind of arm. That is to say, he had the responsibility to see that requisitions for arms and ammunition were properly filled—had the responsibility of all such things?—A. Yes, sir.

Q. It is their business?—A. Yes, sir. It is their business out there to know all about them. They had to make repairs.

Q. Did he have anything to do with the cleaning of guns?—A. Not in a military sense; not by troops.

Q. Not in a military sense. He has been in that service for the past eight or nine years?—A. Yes, sir.

Q. Can you tell us more accurately as to that?—A. I could, with the Army Register.

Q. How was he employed before that time? I have here the official Army Register for 1907, according to which it appears—A. He was in the cavalry at first, I think, sir.

Q. It appears from this official Army Register that Capt. John H. Rice accepted a detail on staff, I suppose it means, the 1st of December, 1898, ordered to service in the Ordnance Department; was transferred to the Ordnance Department in 1898.—A. Yes, sir; that is about what my recollection was.

Q. So that it would be eight years since he had been connected with troops. Now, do you know what service he was in before that?—A. In the cavalry, I think, sir.

Q. Do you remember in what year he was graduated from the academy?—A. That I could not say exactly. I think somewhere about 1894.

Q. Can you tell us where he served, in what country, I mean? Was he in the Philippines? You have testified that he has been in Manila.—A. Yes, sir; in the Ordnance Department.

Q. He was in the Ordnance Department when he was in Manila?—A. Yes, sir.

Q. He did not serve in the Philippines with his troop of cavalry?—A. No, sir.

Q. What rank did he have when he was transferred to the Ordnance Department, if you remember?—A. As I remember, he was a second lieutenant of cavalry. He was transferred to become a first lieutenant of ordnance.

Q. I suppose that is correct. I just want to see. So that prior to 1898 he was serving with his command, with a troop of cavalry?—A. That is probable, sir. I have no direct recollection.

Q. That indicates it, does it not?—A. (Referring to the Army Register.) This indicates that he was graduated from West Point on the 12th of June, 1893; that he was then assigned as second lieutenant to the Third Cavalry, that he served as such until the 21st of November, 1898, when he was transferred to the Ordnance Department, accepting this transfer on the 1st of December of the same year.

Q. So that he was out of the academy and serving with a troop of cavalry, as the record indicates, about five years before he was transferred to the Ordnance Department?—A. About five years; yes, sir.

Q. What was our cavalry armed with at that time?—A. It was armed in the later portion of it with the Krag-Jørgensen carbine.

Q. About what year was the Krag-Jørgensen issued to the cavalry—that is, the carbine?—A. As I remember, it was about 1893, but I would not be positive.

Q. What did they have before that?—A. The Springfield carbine of caliber .45, using charcoal powder.

Q. Now, are you familiar with any guns or arms except only those used in the Army—that is, are you familiar with sporting gun and the ammunition used in them?—A. Not very.

Q. Can you tell us what is meant by .45-75 Winchester?—A. I do not know what is the significance of those terms, .45-75, as used in connection with that gun.

Q. What do you understand by the Colt .45 revolver?—A. That is the caliber of the Colt revolver—caliber, forty-five hundredths of an inch; and the Winchester, I should say that was a Winchester of caliber forty-five hundredths of an inch and that it is to use a charge of powder weighing 75 grains.

Q. That is the way we understand it here.—A. But those are special designations, and they are not always the same in meaning.

Q. Can you tell us the kind of a bullet that is used in the .45-75 Winchester?—A. Not—

Q. I do not expect any accurate answer, General, unless you happen to know it.—A. I have had the Winchester rifle, caliber .45, in my hands, and have seen the ammunition, and my recollection is that it is a lead bullet, not jacketed.

Q. Just a lead bullet?—A. Yes, sir.

Q. Without any jacket on it at all?—A. Yes, sir.

Q. But you have never made any special examination, I imagine, of any of these matters, have you, so as to carry the figures in your mind?—A. No, sir.

Q. I am not asking you for the purpose of embarrassing you in any way. I assume there are a great many of these things that you might not know about unless your attention was called to them.—A. There are a great many that I know in a general way, but would not care to give accurate testimony about.

Q. Now, going back to this microscopic inspection. You believe in this theory upon which that was made, do you?—A. I have no evidence except that which has been submitted to the committee. It was an entirely new subject to me.

Q. It seems plausible to you, does it?—A. It seems to me to be plausible; yes, sir.

Q. And you have not any doubt about its having been accurately made?—A. I have no doubt that it has been very carefully made, and

I would attach great weight to the reports made; but from my own personal examination of the marks on these cartridges, I am not prepared to substantiate the accuracy of the report. I have not gone into it sufficiently.

Q. All I want to know, General, is, whether or not we can safely rely on that report, in your judgment?—A. You may certainly rely on the good faith of it.

Q. On the good faith of it, and it seems to you entirely plausible, does it not?—A. It does; yes, sir.

Q. And you have read the report carefully?—A. Yes, sir.

Q. And you see no ground on which to criticise it?—A. No, sir; I do not.

Q. You accept it yourself as satisfactory?—A. Yes, sir.

Q. With all that it indicates?—A. I do; yes, sir.

Q. Well, I do, too; so we agree about that; so we will not waste any more time on that. Now the 7.65 millimeter is the gun the Spanish troops had.—A. Yes, sir; of which we got quite a number in this country.

Q. We have a good many of them in this country, haven't we?—A. Yes, sir.

Q. Could not the bore of the 7.65-millimeter gun be changed in the same way that I understood you to say the bore of the Krag might be changed, so as to accommodate the Springfield cartridge?—A. It looks plausible, sir. I could not say that it could not.

Q. There would not have to be anything at all done, would there, General, except only to enlarge the bore, and that might be done like any other?—A. There are so many little details, with reference to the working of the extractor and the action of the firing pin, and so forth, that it would be difficult to say, without trying it, but I do not see any reason why it should not be done.

By Senator LODGE:

Q. Before you go on with that, what is done to enlarge the chamber?—A. They would have to ream it out. The process would probably be to unscrew the barrel from the receiver and then ream the chamber out to the new size.

Q. Ream it out. That has to be done by machinery, of course?—A. Yes, sir; that is done by machinery.

By the CHAIRMAN:

Q. Where would you find such machinery?—A. It might possibly be slowly done in any good machine shop; but to be done in quantity it would probably have to be in an armory somewhere. They would have to make a reamer; but it would not be an impossible operation in any good machine shop.

By Senator BULKELEY:

Q. They could do it in Springfield, couldn't they?—A. Yes, sir; they could do it in Springfield.

By Senator FORAKER:

Q. They could do it in any good machine shop anywhere in the country, General, could they not?—A. It looks as though they could.

Q. Is there anything simpler, now, than reaming out, and in that way enlarging, the bore of anything in metal?—A. That is a very simple operation.

Q. Very simple; just as simple as it can be. It does not need an expert, does it?—A. It would need an expert to do it, but there are plenty of them to be found.

Q. How much enlargement would there have to be, to allow this cartridge to enter that bore?—A. I could answer that better by looking at the cartridge, and measuring it.

Q. Now, what is the difference in the diameter of those two shells?—A. As far as the diameter is concerned, a few hundredths of an inch only.

Q. Two hundredths?—A. A few hundredths; but in regard to the length, there is a difference of something like three-eighths of an inch, I should say.

By Senator LODGE:

Q. The chamber would have to be lengthened three-eighths of an inch?—A. Yes, sir; the chamber would have to be lengthened three-eighths of an inch. Now, there is another question comes in, whether or not the Krag barrel would be strong enough to stand the pressure of the larger charge. That would be something about which I do not care to give testimony.

Q. But if we wanted to go out and shoot up a town, and had no other way of doing it, we might take the risk?—A. Yes, sir.

Senator WARNER. And establish a machine shop!

Senator LODGE. Establish a machine shop and ream out the guns.

By Senator FORAKER:

Q. You do not have to establish a machine shop. I understand you to say it could be done in any good machine shop in the country?—A. Yes, sir.

Senator LODGE. If you had the guns.

Senator FORAKER. Well, I have proven that you had the guns. I will prove one thing at a time, gentlemen. We are getting along very well. Now, it is not quite our adjourning time, but I should like to have the General come back after the recess, if I am not troubling him too much. I should like to look over my notes. These two guns that the General brought here. I want them preserved just as they are.

(At 12 o'clock and 48 minutes p. m. the committee adjourned until 2 o'clock p.m.)

AFTERNOON SESSION.

The committee reconvened, pursuant to the taking of the recess, at 2 o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, and Overman.

TESTIMONY OF BRIG. GEN. WILLIAM CROZIER, CHIEF OF ORD- NANCE, U. S. ARMY—Continued.

By Senator FORAKER:

Q. Please look at the exhibit now shown you, being No. 4 of the bullets, and tell me of what it consists.—A. That looks like a piece of the metal jacket of a bullet.

Q. The lead filling has entirely disappeared, apparently, has it not?—A. It is pretty thoroughly gone; yes, sir.

Q. Have you ever experimented or conducted experiments to see under what circumstances the jacket will be stripped off the lead, and the lead disappear, as in this instance?—A. I never personally conducted any such experiments. I know of such, however. It is sometimes done by firing a bullet into water. That constitutes one of the reception tests in the purchase of ammunition.

Q. It will be stripped off by firing the bullet into water?—A. Bullets are sometimes fired into water to see if it will strip off. It ought not to, but it sometimes does.

Q. Did you ever know of its stripping off from merely being fired into water?—A. I have not observed any case myself, but I know that it sometimes occurs.

Q. It occurs usually, does it not, when it is fired as into a brick wall, or into gravel, or some such substance as that?—A. It might, in any such case as that.

Q. That, I understand, was taken out of a brick wall, was it not?—A. From the indorsement on the envelope, it was taken from the wall of the Miller Hotel.

Q. That was a brick building.

Q. When fired into a brick wall that is liable to occur?—A. I should say it might.

Q. Is it not liable to occur when it is merely fired into a wooden door, for instance, or into a pine or frame building?—A. I have never known it to be done in such a case. I do know it is sometimes done by just firing it through the gun.

Q. Through what?—A. Through the gun. It strips off in the air sometimes. That occurs generally in the case of a very badly worn gun or too thin a jacket.

Q. That would be very rare?—A. Yes, sir; that would be very rare.

Q. Where did you ever hear of a case like that?—A. I have heard that in tests at the Springfield Armory, where, firing over water, they would sometimes notice that after a good many rounds the jackets would strip off and drop into the water. You would see them dropping into the water. That is to say, you would see something dropping into the water, and would know it was a jacket.

Q. What would become of the lead in that instance?—A. That would pass on and be lost. In my testimony this morning I told you that within a comparatively short time past the thickness of the jacket had been increased from one and a half to two hundredths of an inch. That was to keep it from stripping.

Q. How long ago was that increase in the thickness of the jacket made?—A. I should say something like two years ago.

Q. That was done before the Springfield rifle was adopted, was it not?—A. It was before it was issued to the service.

Q. Before it was issued?—A. Yes, sir.

Q. All these cartridges made since December, 1905, have had this thicker jacket, have they not?—A. Yes, sir.

Q. Now, General, about the deflection of bullets, have you ever made experiments to determine to what extent these bullets may be

deflected, fired from these higher-power guns, by meeting with obstructions?—A. Never any experiments with that object.

Q. Have you had occasion to observe what kind of wounds these high-power projectiles make, at close and long range, respectively?—A. I have seen some of them, and know of others. I saw a Filipino who had been shot immediately before, within ten minutes, at a range, I should say, of something like 40 yards. I observed carefully the character of the wound.

Q. Where was he hit, what part of the body?—A. He was struck below the left shoulder, in the back. He was running away from the firer, and apparently stooping as he ran, so that the bullet ranged upwards and to the right, and came out on the right side of his neck. The wound of entrance was a small, round hole. The wound of exit was a gash apparently between 2 and 3 inches long, considerably longer than the longest dimension of the bullet which made it.

Q. Now, have you ever seen any other case similar to that; in a general way similar, I mean?—A. I saw two or three wounds that a colored soldier had received perhaps a month before, and which were nearly healed. These wounds were simply small spots by that time.

Q. Were those wounds at short range or long range?—A. I think that was long range.

Q. That was long range?—A. Yes, sir; I judge so. I am not absolutely certain.

Q. Is it not true that these high-power projectiles at short range are liable to lacerate and tear a great deal more than they will after they have gone a distance of 400 or 500 yards?—A. That is most difficult to make a positive statement about. There are instances both ways. I have given you an instance where at short range the bullet tore a large gash at the wound of exit, as I say, larger than the longest dimension of the bullet. I could tell you of other instances from common knowledge. I know of another instance in Cuba, which is a well-known case, where an officer was shot by one of his own sentinels with a Krag rifle. The distance was said to be about 20 paces. The sentinel challenged him, and the officer dropped to avoid being shot, and he was shot with this Krag rifle in the abdomen, and the wound ranged downwards; but he was well and about again. I understand, within ten days.

Q. What officer was that?—A. An officer by the name of Hunter, of the artillery.

Q. Of the artillery?—A. Yes, sir.

Q. And that wound was inflicted by a projectile fired out of a Krag rifle?—A. Yes, sir.

Q. At a distance of 20 or 30 paces?—A. Yes, sir.

Q. And you did not see the wound?—A. No, sir; I can not testify to that of my own knowledge.

Q. Do you know what kind of wounds were made? How did the wound at the place of exit correspond with the entrance wound?—A. I know, nothing about it, except that it is the general belief as I have stated here.

Q. A great many people who have had very ugly looking wounds which they received in Cuba were up and about within two or three days after they received them, were they not?—A. I understand so.

Q. I remember the case of General Mills. I saw him, I think it was not longer than three weeks after he had been wounded at Santiago, shot through the head; a very ugly and bad wound, and still he was up and about, and got entirely well within a short time. But still that was a very ugly wound.—A. Yes, sir.

Q. So that it does not follow that a man may not get up soon if he has an ugly wound, nor does it follow if he has an ugly wound that he would not get up soon, would it?—A. I can not make any generalization about it.

Q. You remember the case of General Mills, do you not?—A. Yes, sir.

Q. I wish you would look at the bullet I hand you, and see the position that it was in in that wood. It was testified this morning, by Mr. Creager, that that bullet went clear through there. I understand. Mr. Creager testified that this bullet was found in such a position as to indicate that it was not going straight forward, but sidewise, when it stopped. That is a common thing, is it not?—A. Yes, sir.

Q. That is due to what you call tumbling, is it not?—A. Yes, sir; and we call the effect produced on what it strikes that way "keyholing." You can see the reason of it.

By Senator SCOTT:

Q. It knocks the piece out on the opposite side?—A. No, sir; it makes an elongated hole when it strikes, shaped like a keyhole.

By Senator FORAKER:

Q. That is, it makes just such a mark on the wood as the imprint of the bullet would make [indicating with bullet in block of wood]?—A. Yes, sir.

Q. When is it that one of these high-power projectiles does this tumbling, at long range or short range?—A. It would depend on whether it was fired from a good rifle. If it was fired under normal circumstances, I suppose you mean?

Q. Yes.—A. Under those circumstances it should not tumble unless it should strike some object, at any range. It should go practically to the end of its flight without tumbling. But if it should strike an obstacle, that might cause it to tumble also, at any range.

Q. At short range or long range?—A. Yes, sir; at either short range or long range.

Q. So that tumbling is due to the effect upon it of striking something?—A. Yes, sir.

Q. It is not a natural condition of the bullet?—A. Not a natural condition of the bullet when fired from a normal rifle.

Q. When the bullet is on its flight at short range there is a lateral motion of the bullet, which is called the explosive effect of the bullet when it strikes an object?—A. I do not think that can be asserted; no, sir. These bullets when they first leave the gun, although it can not be positively stated, may have a slight wobbling motion about their axis.

Q. Due to the rotation?—A. Due to the rotation, yes, sir; due to the rotation and the resistance of the air. This is a little bit of an abstruse subject, but I will try to make myself understood. Sometimes, in firing at very short range, we find that projectiles do not strike absolutely point on, not only bullets of small arms, but projec-

tiles from artillery, and if we want them to strike directly point on, we must shift the target a little farther away. That arises from what is called the precessional motion. That is a scientific term, which means a slight revolution of the axis of the bullet around the line of flight, such as you sometimes see in a top when you first spin it. It is exactly the same kind of a motion, produced in the same way. Now, in a short distance this bullet, if the rifle and everything is in good condition and everything is proper for the projectile, will steady itself, keeping the axis of the bullet practically coincident with the projectile's trajectory, just as a top will finally go to sleep and cease its wobbling motion.

Q. What distance is necessary to make one of these bullets steady itself?—A. We have not tried to determine it.

Q. Have you not what is called the "humane zone?"—A. Not accurately determined.

Q. It is not, in the use, in the firing of these projectiles? Does it not mean that after one of these bullets has gone a distance of 400 or 500 yards it has so steadied itself that if it strikes a man it will go through him without tearing him all to pieces, and that before that time, short of that distance, it is much more apt to tear and make ugly wounds?—A. The behavior of these bullets under experiments we have made is so erratic that I can not make any generalization, and I do not believe that anybody can.

Q. Is it not true that you do speak of a "humane zone," and does not that have reference to just what I have indicated?—A. That has no general use in the military service. You will not find it in any of our instructions.

Q. No; it is not in any of the instructions, but I find it in all discussions on this subject.—A. Yes. The statements about it are nearly all speculative.

Q. I am not sure but what you have it in this book here. I have seen it in some of the official documents.—A. I do not remember it.

Q. The humane zone spoken of is that part of the flight of the bullet after it reaches a distance of 400 to 500 yards from the gun, up to the distance of 1,000 to 1,500 yards; showing that it is not accurate; but there is a portion of the flight of the bullet during which time the bullet goes much more steadily than it does during other portions of the flight?—A. I do not think there is any determination of any such zone.

Q. Did you not ever hear it spoken of?—A. I have heard it spoken of, and have heard this subject discussed a great deal.

Q. You have heard it spoken of, and it has reference to exactly the idea that I am trying to express?—A. Yes; I understand the idea and I understand the reference to it.

Q. But what you want to say is that there is nothing accurate about it?—A. Yes, sir; exactly.

Q. It may be that way, or may not be?—A. Yes, sir.

Q. The flight of these bullets is erratic?—A. I mean to say that this effect you speak of, this lacerating effect in a wound which takes place at different ranges, has not been tied up to the range with any accuracy.

Q. I understand you to say that; but still, during the early flight of the bullet, there is more rotation about the axis of the bullet; that is undoubtedly true, is it not?—A. Yes, sir.

Q. The velocity is greater, is it not, as it leaves the gun?—A. Yes, sir; but this little precessional motion which I speak of, which is not the rotation of the bullet around its own axis, but the rotation of the axis of the bullet around the trajectory of its flight, around the line of flight—

Q. I understand.—A. That will result from the bullet leaving the bore with its axis not exactly coincident with its line of flight.

Q. I understand that exactly. That is to say, the bullet itself swings about the direct line?—A. Yes, sir. That is a very slight motion, of course.

By the CHAIRMAN:

Q. I am very much interested in this, and I would like to ask a question right at this point. Is that the general rule as to all bullets, or is it only that they may do that? I want to get at this, whether a bullet may do that, or whether it always has that little motion?—A. The best we can say about it is that it may do it. We are satisfied that it is sometimes done. We are not satisfied that it always occurs.

By Senator FORAKER:

Q. You can not always tell?—A. No, sir.

Q. Whenever you have a chance, however, to demonstrate whether it does or not, is it not the case that it appears to have done it?—A. I will state it perhaps a little differently. In many cases where we have had an opportunity we have found that it does so, and we have had to move the target a very little farther back.

Q. You have not had any opportunity to determine that it did not do it in every case?—A. No, sir; but with that, the motion is very slight.

Q. Now, during this precessional flight of the bullet, if it meets with an obstruction, is it not more apt to be deflected than after it steadies itself, as you have said?—A. Although this precessional motion is very slight, I should say that the probabilities are in favor of it.

Q. And the precessional motion is during the early flight?—A. Yes, sir.

Q. About how many yards from the gun would that precessional flight extend?—A. I have no experiments on which to base an answer, but judging from all our target-practice results it would be within 100 yards—in fact, well within 100 yards.

Q. Would it not be as much as 400 or 500 yards, General?—A. No, sir; I should not think so. Our firing against screens and for penetration is made within such range as that, and the flight of the bullet proves to be direct in such cases.

Q. Have you ever had occasion to learn what the effect of a bullet passing near one would be in the matter of producing a concussion that would be felt by the individual?—A. I have heard some bullets which I thought were passing quite near to me, Senator, and the effect was simply a short, quick, sharp sound. I can illustrate it, but it could not be taken down.

Q. No; but what would be the effect on an individual if a bullet were to pass in close proximity to the face and head? Would there be a concussion that the individual would feel, aside from the noise?—A. I have never had any pass close enough to me to feel that.

Q. And you have made no experiments in that?—A. No, sir.

Q. Do you know what the effect would be of a bullet coming into a room like this from a high-power gun?—A. No, sir.

Q. For instance, passing under the ceiling above this table, would the concussion be sufficient to put out a lamp?—A. I could make no better guess as to that than anybody else.

By Senator OVERMAN:

Q. Would it move every paper on this table?—A. I have had no experience. I could guess as to that as well as anybody else.

Q. If anybody gave such an opinion as that it would be a guess, would it not?—A. Somebody may have seen it tried, and I do not know.

By Senator FORAKER:

Q. If an officer of the Army came here and testified that he had had personal experience and made personal observations of that kind, you would not be disposed to dispute his statement, would you?—A. No, sir: I would not.

Q. Or to set him down as trying to swear falsely?—A. No, sir.

By Senator OVERMAN:

Q. But suppose a man had not had the experience and just gave his opinion, you would have as much right to your opinion as he would have to his?—A. If he was in the same situation as I was in, I would think our opinions would be of about equal value.

By Senator FORAKER:

Q. As to reaming out these guns, you spoke of this being something that could be done in any machine shop. Could it not be done without going to a machine shop? Are there not implements, such as hand reams, which are used by all mechanics for boring steel: or have you had any experience?—A. There are drills, hand drills.

Q. Yes.—A. And hand reamers; and if one had sufficient skill and unlimited time, and did not mind the expense, I should say that it was not impossible to ream a piece of steel out without going into a machine shop.

Q. Do you think it would be a very difficult matter with a hand ream, such as they have in general use in all machine shops of the country, to ream out the bore of one of these guns and enlarge it in the way we were talking about this morning?—A. I think it would be a very difficult matter, but I would not say it was impossible.

Q. You would not say it was impossible?—A. No, sir.

Q. You have had no experience on that point?—A. No, sir.

By Senator WARNER:

Q. Just one question. What is the life of a gun—that is, before the lands become worn so that it is no longer fit for use?—A. We consider the admissible life of this model of 1903 rifle to be between 3,000 and 3,500 rounds, after which its accuracy is impaired beyond the point at which we think it ought to be used in the military service.

Q. And as to the bullet from a Springfield rifle, in passing through the tissues of the body, whether it would make a larger hole at the point of exit than at the point of entrance, you have no knowledge?—A. I mentioned one case that came under my own observation, of a Filipino.

Q. Had the bullet struck a bone in that case? Do you know whether it had been deflected or not?—A. The wound of exit was larger than the longest diameter of the bullet. The theory that is sometimes used to account for that is that it will drive a stream of blood ahead of it—a sort of semiliquid stream ahead of it—which will break out through the skin, making a gash larger than any dimension of the bullet.

Q. Of course the effect of these bullets is very erratic, and you say you can get no definite rule as to it—that is, as to the deflection—how they may be deflected?—A. By obstacles?

Q. Yes.—A. Yes, sir; that would be very erratic. A deflection by any obstacle would be very erratic, and you could not say how the bullet would go. A bullet fired normally into a homogeneous medium, such as a wooden block, would go nearly straight. I have known of instances where the bullet has been cut out, and it was found it had gone nearly straight. But where it goes into one kind of material and then into another, out of one into another, the bullet would go in almost any direction.

Q. Just what would produce the stripping of the jacket from the bullet is indefinite also, is it not?—A. It can be done in a number of ways.

By the CHAIRMAN:

Q. What would be the effect of shooting into a wheat field or a corn field; what would be the probable effect on the bullet?—A. Well, I should not expect firing through wheat to deflect it, but firing through corn might or might not. With reference to this question that you just asked, about wounds of exit, in my statement of the theory with regard to the bullet driving a semiliquid stream before it, a bullet was at one time used, although I do not know to what extent, in the British service, or proposed, which they called the hydraulic bullet. The bullet had a little hole drilled down into the point a short distance, a quarter of an inch, and the idea of that was that that hole would fill with liquid, and that liquid would form something of a continuous body before the bullet and be driven ahead of it, and make a lacerating wound. That is speculative, also.

Senator WARNER. That is all.

By Senator FORAKER:

Q. You have tables in this publication of the War Department giving rules for the management of the United States magazine rifle, showing what the deviations from the straight line are likely to be?—

A. Yes; I think they are called there drift tables or deviation tables.

Q. Yes; drifting, horizontal deviation, you mean, from the right to the left?—A. Yes, sir.

Q. And then is there a vertical deviation also?—A. The vertical deviation we take account of is simply that which is due to the attraction of gravity, and having the bullet drop down below the tangent of the trajectory.

Q. The deviations are sometimes to the right and sometimes to the left?—A. Yes, sir; they are sometimes to the right and sometimes to the left; generally speaking, in a rifle with a right-handed twist, they are to the right.

Q. When is it they are to the left?—A. Generally speaking, when they are to the left; that is, when the twist of the rifling is such that the bullet rotates to the left.

Q. What is the twist in our Springfield rifle?—A. To the right.

Q. Is not the deviation to the left in the first instance and to the right later?—A. The deviation in the Krag-Jørgensen rifle was at first to the left and then to the right. I do not remember exactly how that is in the Springfield rifle. But the drift is always to the right, with a right-hand twist, although the muzzle may throw to the left, and cause early deviation to the left.

Q. I call your attention to page 55 of this book. I do not know that I correctly understand it, but as I do understand it, that table is intended to show the horizontal deviation to the right and the left?—A. Yes, sir.

Q. And I understand the explanation preceding the table to be that the bullet when fired out of this Springfield rifle which has the twist of the rifling to the right, will deviate first to the left, up to 1,500 yards?—A. Yes, sir; up to 1,500 yards.

Q. And then it turns and deviates to the right?—A. Yes, sir.

Q. And it deviates as far as one-tenth of an inch at 300 yards, three-tenths of an inch at 400 yards, four-tenths of an inch at 500 yards, six-tenths of an inch at 600 yards, seven-tenths of an inch at 700 yards, eighth-tenths of an inch at 800 yards, 1.3 inches at 900 yards, 1.5 at 1,000 yards, 1.7 at 1,100 yards, 1.8 at 1,200 yards, and then reducing to five-tenths of an inch to the left at 1,500 yards, and then it deviates to the right?—A. Yes, sir.

Q. Tot the extent of 1.1 inches at 1,600 yards. Then at 2,500 yards it has gotten up to 39.4 inches deviation to the right, has it not?—A. Yes, sir.

Q. These tables are based, I suppose, on experimental practice?—A. Yes, sir; on actual firing.

Q. That is without regard to the effect of the wind?—A. Yes, sir; without regard to the effect of the wind.

Q. That is a very strong deviation to the right, is it not?—A. Yes, sir.

Q. That is more than 3 feet?—A. Yes, sir.

Q. In addition to that deviation to the left and then to the right, there is the vertical deviation due to the decreasing of the velocity?—A. Yes, sir.

Q. And the effect of gravity on the bullet?—A. Yes, sir.

Q. And that is given also, I suppose, in this book?—A. Yes, sir; that table gives it.

Q. That is the table which I see here [indicating]?—A. Yes, sir.

Q. Now, will you please tell us what the deviations are, according to that table? I do not want you to go over all of those figures, there are three pages of them, but in a brief way tell us what the summit of the trajectory is; that is, I suppose, the highest point it reaches. Take, for instance, at 100 yards.—A. It rises eight one-hundredths of a foot. If the projectile is fired at a target on the same level as the muzzle of the gun, and placed 100 yards away, this means that the bullet will rise eight one-hundredths of a foot between the muzzle of the gun and the target.

Q. At 1,000 yards, how much will it rise?—A. According to this table it will rise 21.26 feet.

Q. Now, see what it is at 1,100 yards?—A. 28.03 feet. That is to say, the bullet rises 28.03 feet in going 1,100 yards.

Q. At 2,500 yards, how much does it rise?—A. At 2,500 yards it rises 325.07 feet.

By Senator OVERMAN:

Q. It rises 325 feet?—A. Yes, sir; in 2,500 yards, according to this table.

By Senator FORAKER:

Q. No; I think we are in error, General. Let me call your attention to the fact that that is when it is fired at the range, but the distance—A. The distance from the muzzle of the gun at the highest point of the trajectory is a different affair.

Q. When you fire at a target 2,500 yards away, when the bullet is 1,452.7 yards from the muzzle of the gun it will be 325.07 feet higher than the muzzle of the gun?—A. Yes, sir.

By Senator OVERMAN:

Q. How would you ever hit anything that way?—A. You must know how far away it is. This is illustrative of the main source of inaccuracy of fire; that is, misjudgment of the range. You must know the range in order to have the bullet come down at the right place.

Q. You govern that by the gun itself?—A. Yes, sir.

By the CHAIRMAN:

Q. The object of range control in the artillery is to get the range, by triangulation?—A. Yes, sir.

By Senator FORAKER:

Q. All this is dependent upon the angles of departure and elevation, and the time of flight, as shown in this table?—A. Yes, sir.

Q. Now, at page 52 we have another table headed, "Ordinates of Trajectory Above Line of Sight." One hundred yards away there is no rise at all, is there?—A. First, when firing at 100 yards range, the trajectory above the line of sight at 100 yards is zero. That is, it comes down again.

Q. If it rises at all, it comes down again?—A. Yes, sir; rises and comes down again. Now, at 200 yards range the height of the trajectory at 100-yards distance is thirty-six one-hundredths of a foot, and at 200 yards it is zero, because it comes down to it again. This table does not give the highest point, but gives the height at various points, 100 yards apart. Take the next, at 300 yards. A bullet fired at 300 yards range, at 100 yards is seventy-eight hundredths of a foot above the line of sight, at 200 yards it is eighty-three hundredths of a foot, and at 300 yards it has come down to zero again.

The CHAIRMAN. And beyond zero it would strike a point lower?

The WITNESS. Yes; unless it strikes against the target and stops. Now, going down to the bottom of the page, taking 2,500 yards range (which means that with the gun sighted at an elevation suitable for striking the target which is on the same level with the muzzle of the gun, 2,500 yards away), at 100 yards away the elevation is 34.39 feet,

at 200 yards away the bullet is 68.04 feet in the air above the line of sight, at 300 yards away it is 100.79 feet in the air, at 400 yards away it is 132.45 feet in the air, and so on.

Q. Now, it is going up?—A. It is going up all the time. At 600 yards it is 191.46 feet in the air; at 700 yards it is 218.19 feet in the air.

Q. Without reading all of those figures, go to the last one.—A. At 1,200 yards it is 311.41 feet in the air. Going on to page 53, we find that at 1,500 yards it is at its highest point as given here. 324.54 feet in the air.

Q. And then it comes down to zero again?—A. At 2,500 yards it comes down to zero, on the line of sight.

By Senator BULKELEY:

Q. It simply describes a circle?—A. It is either a parabola or an ellipse, but it is a curve.

Q. In order to travel that distance it is necessary for it to go on a curve; it can not travel straight?—A. It must go on a curve; yes, sir. (Witness excused.)

**TESTIMONY OF CAPTAIN WILFORD J. HAWKINS, U. S. ARMY—
Recalled.**

By Senator LODGE:

Q. Lieutenant Hawkins, you conducted the examination at Springfield of these bullets and shells, did you not?—A. Yes, sir.

Q. As to which you have testified already before the committee?—A. Yes, sir.

Q. You made the microscopic examinations?—A. Yes, sir.

Q. I want to ask you first—in fact principally—a few general questions. Could these bullets that were brought to you from Brownsville, and which you examined, have been fired out of what is commonly called the Mexican Mauser?—A. No, sir.

Q. Why?—A. Because the bullets that were turned over to me measured across the grooves from 308 to 309 thousandths of an inch in diameter, and the caliber of the Mexican Mauser is 7 millimeters, which is about two hundred and eighty-six thousandths of an inch across grooves.

Q. They would have been too large for a Mexican Mauser?—A. Yes, sir.

Q. How could you distinguish them from a bullet fired from a Remington or Winchester?—A. They can be distinguished from a Remington on account of the fact that the bullets that were turned over to me had four land marks, while the Remington rifles are made with seven lands; and hence the bullets coming from the Remington would have seven land marks, and the Winchester rifle has six lands, so that the bullet fired from the Winchester rifle would have six land marks, whereas the bullets turned over to me had four land marks only.

Q. They all had four lands only?—A. Yes, sir.

Q. Could they have been fired from the Spanish Mauser? I call it the Spanish Mauser simply to distinguish it from the Mexican Mauser.—A. The Spanish Mauser of what caliber?

Q. The ordinary caliber of those taken in the war with Spain?—A. No, sir; that is a 7.65-millimeter Mauser, which is about 0.302 inches in diameter on the caliber size.

Q. I can not hear what you say.—A. I say these bullets could not have been fired from what is called the Spanish 7.65-millimeter Mauser, because the caliber of the 7.65-millimeter Mauser is greater both as to the caliber size and as to the groove diameter. The groove diameter of the 7.65-millimeter Mauser is about 313 to 313½ thousandths, whereas in our rifle the diameter across the groove is 308 to 309 thousandths.

Q. Are there any other Mausers in use in this country—in common use?—A. There are some 7-millimeter Mausers.

Q. That is the Mexican Mauser, is it not?—A. There are several models of the 7-millimeter Mausers. They are all either 7 millimeters or 7.65 millimeters.

Q. I mean are there any other calibers except the 7 and 7.65 millimeter?—A. There are; yes, sir.

Q. Of the Mauser type?—A. No, sir; but there is an 8-millimeter rifle of the Mannlicher type.

Q. That rifle is on sale in this country?—A. Yes, sir; there are a few of them on sale in this country.

Q. Not in general use?—A. No, sir.

Q. Could these bullets have been fired from the 8-millimeter Mauser?—A. No, sir.

Q. Why?—A. Because these bullets now are smaller than the bore of the 8-millimeter Mannlicher.

Q. Is there any type of Mauser from which these bullets could have been fired?—A. Not to my knowledge; no, sir.

Q. Would a bullet fired from a Mauser exhibit, under examination, any distinguishing mark as compared with these Brownsville bullets, in size or length of the land marks?—A. Yes, sir. If one of our bullets was fired from the 7.65-millimeter Mauser, the length of the land marks on such a bullet would be less than the length of the land marks on a similar bullet fired from the model of 1903 rifle or from the model of 1898 United States rifle.

Q. Did you make any examination or tests as to the differences you have just described?—A. Yes, sir.

Q. I mean as to the length of the land marks which you have just described?—A. I measured the length of the land marks on the last three bullets which were turned over to me. On the six bullets I did not measure the length of the land marks, because that point was not then patent to me. I did not realize that that difference existed.

Q. After you measured the land marks on these three bullets, did you then compare them with the land marks on the bullets fired from the Mauser?—A. Yes, sir.

Q. And what was the difference?—A. The length of the land marks on the three last bullets which were turned over to me corresponded in length with the length of the land marks produced by our rifles—by the model of 1898 rifle and the model of 1903 rifle.

Q. But differed from the Mauser?—A. Yes, sir. In other words, the length of the land marks on these last three bullets you turned over to me was greater than the length of the land marks as produced by a 7.65-millimeter Mauser rifle.

Q. Was that difference in length which distinguished them from the Mauser sufficient to be visible by photographing or some process of that kind?—A. Yes, sir.

Q. Did you photograph them?—A. Yes, sir.

Q. Have you the photographs here?—A. Yes, sir; I have them in my bag in the other room.

• Senator FORAKER. Here is the reproduction of the photograph, at page 2269 of our record.

By Senator LODGE:

Q. Judging by the bullets alone, these nine Brownsville bullets might have been fired either from the Krag of the model of 1898 or from the new model Springfield of 1903? That is correct?—A. Yes, sir.

Q. By no examination that you made were you able to settle definitely any distinction between them—between the Krag and the Springfield?—A. No, sir.

Q. Did you see the shells that were picked up in Brownsville?—A. Yes, sir.

Q. Could those shells, with those bullets, have been used in a Krag?—A. No, sir.

Q. Why not?—A. Because the shell was too large to enter the chamber of the Krag rifle and have the bolt locked into the firing position.

Q. The only rifle that would have taken those shells and bullets in combination, then, would have been the Springfield new model?—A. Those were the only Government rifles. There is a Winchester rifle which is chambered for the model of 1903 ammunition.

Q. And how many lands has that Winchester rifle?—A. That model of Winchester rifle has six lands.

Q. Six lands?—A. Yes, sir.

Q. I mean, was there any rifle that would have fired those bullets out of those shells and made that number of lands, four lands, other than the new model Springfield rifle?—A. No, sir.

Senator LODGE. That is all.

By Senator FORAKER:

Q. Now, you spoke of a Winchester rifle being chambered so as to accommodate the Springfield cartridge. What do you mean by chambering the Winchester rifle?—A. I mean that the recess which is reamed in the end of the barrel is made to such dimensions that it will accommodate the 1903 cartridge.

Q. That is, by chambering a Winchester so as to accommodate this larger and longer Springfield cartridge, you mean that they simply reamed out this bore, do you not [indicating with rifle]?—A. Yes, sir.

Q. That is a very simple operation, is it not?—A. With a proper tool, it is.

Q. What would you need in order to do that?—A. We use a power-reaming machine, with several reamers.

Q. Could you not do it with a hand reamer such as is used in mechanical shops?—A. Hardly; no, sir.

Q. How much pressure can you bring to bear by the ordinary brace-and-bit reamer called the hand reamer—or are you familiar with that?—A. Yes, sir; we use that style of reamer sometimes for altering the head spaces.

Q. By changing the head spaces, you mean changing the bore in the barrel so as to allow the use of a larger cartridge?—A. The head

space technically is the distance from the base of the cartridge to the head of the bolt.

Q. So as to let the cartridge go clear in?—A. Yes, sir.

Q. So that the bolt will have its full and proper operation?—A. Yes, sir.

Q. And to do that, if you were going to do it at the Springfield Arsenal, you would have the facilities for doing it?—A. Yes, sir; we can alter the head space there by a few thousandths; but if you were going to take out a considerable amount of metal, that would be a very difficult and tedious operation.

Q. They do that whenever they change the bore of the Winchester rifle?—A. The Winchester rifle that is made for the model of 1903 ammunition is made for that purpose.

Q. Do they not change them after they are manufactured?—A. No, sir.

Senator LODGE. They are manufactured that way throughout, are they not?

A. Yes, sir; they are manufactured to take the Government ammunition.

By Senator FORAKER:

Q. That is a part of the original manufacture, as you understand it?—A. Yes, sir.

Q. Have you any personal experience on that?—A. None, except my experience in the manufacture of arms.

Q. What is the difference between the Springfield cartridge and the Krag cartridge?—A. I can not give it to you offhand.

Q. Not more than three-eighths of an inch, is it?—A. Something like that.

Q. Not as much as half an inch?—A. No, sir.

Q. What is the difference in diameter between the Springfield and Krag cartridges?—A. It is a matter of hundredths of an inch.

Q. How many hundredths, perhaps?—A. I can not say exactly, sir. I should say from an estimate that it would be perhaps three-hundredths on the diameter.

Q. It would not require a great deal of reaming, would it, in order to enlarge the bore of the rifle in order to admit that cartridge?—

A. Not a great deal, with the proper sort of reamer; but with the hand reamer, to take out three-hundredths on the diameter is a very considerable operation.

Q. Did you ever see the operation performed?—A. Yes, sir.

Q. You have seen them try to do it with the hand reamer?—A. Yes, sir.

Q. And did they succeed in doing it or not?—A. Well, I think you misunderstand me. I have seen the operation of reaming out a model of 1903 chamber so as to vary the head space perhaps a thousandth or two-thousandths, and even that requires considerable pressure.

Q. They do that with the hand reamer, do they?—A. Yes, sir.

Q. But you think if they wanted to do as much as two or three hundredths of enlarging it would be a difficult operation?—A. Yes, sir; it would be quite a difficult operation, because it would be two or three hundredths over the entire surface of the chamber, which in all would amount to a considerable amount of metal.

Q. It would be simply enlarging the bore, so that the diameter of the bore would be that much greater?—A. Yes, sir.

Q. And if it were enlarged that way for the distance in there—that would correspond to the increased length of the Springfield cartridge over the Krag cartridge—it might fit in as well as the other cartridge, would it not?—A. Yes, sir; there would be that amount of enlargement to make on the diameter; and then besides that the shoulder in the chamber would have to be carried forward by the difference in length.

Q. So I understand. That was a part of the question, the difference in the length of the cartridge.—A. Yes, sir.

Q. Now, Lieutenant, passing from that, what did I understand you to say was the difference in the width of the lands of the 7-millimeter gun and the Springfield gun?—A. I said nothing about the width of the lands.

Q. I understood Senator Lodge to ask you about that.

Senator LODGE. That was in regard to the Winchester and Remington lands; about the number.

The WITNESS. About the number.

By Senator FORAKER:

Q. Well, he asked you whether or not these bullets might not have been fired out of a Mauser rifle, and you said they could not have been fired out of a Mauser rifle, because there was a difference in the width of the land, as well as in the length of the land?—A. No, sir.

Q. That was the Mauser?—A. I said nothing about the width.

Q. There is no difference in the width of the 7-millimeter or 7.62-millimeter, is there?—A. The width of the lands in the 7.65-millimeter rifle is about fifty-eight thousandths of an inch.

Q. We have here a table furnished this committee by the War Department, printed at page 1369 of our hearings, which shows that the Krag-Jørgensen modified rifle was the equivalent of the 7.62-millimeter, was it not? No. .30 caliber; number of grooves, 4. It gives the width of the groove, but the width of the land is 0.0589.—

A. It is 0.058905, to be exact, as measured on the arc.

Q. That is as it is given here [indicating in table]?—A. Yes, sir.

Q. It is the same for the Springfield, as shown by this table?—A. Yes, sir.

Q. I am speaking of the lands now, not of the grooves. There is a difference in the grooves, is there not, very slight?—A. Yes, sir; according to the table.

Q. Hardly perceptible. It would be almost impossible to measure that difference, would it not, in a groove made on a bullet?—A. No, sir; you can measure it very accurately with the Pratt & Whitney measuring machine.

Q. The width of the land is 0.0589, as given here. That is the same also for the Springfield, and it is the same for the Krag; so that looking at a bullet and seeing four lands on it you could not tell from the width of the lands whether it was a Krag or a Springfield?—A. No, sir.

Q. They are exactly the same, intended to be. Now, we come down to the 7.65-millimeter gun. That is supposed to be in use by the army of Argentina. That is a Mauser gun. What is that the equivalent of

in our caliber, in our numbering—our inches?—A. It is equivalent to 0.302.

Q. To 0.301, is it not, as given in this table?—A. Accurately, it is 0.301188.

Q. Now, what is the width of the land in that rifle?—A. As I remember, from the measurements I have made, it is about 0.0589 inches.

Q. I call your attention to what this table shows. This is supposed to be official. It says here 0.059, does it not?—A. Yes, sir.

Q. What is the difference between 0.059 and 0.0589?—A. It is one ten-thousandth.

Q. One ten-thousandth. That is imperceptible in examining the bullet with the naked eye, is it not?—A. Yes, sir.

Q. It would be difficult to measure one ten-thousandth in the width of a land, would it not?—A. It is difficult, but it is done.

Q. Yes; it can be done. Now, what is the equivalent of our .30 caliber? I will just ask you to look at that and see. It is not necessary to have it figured accurately. Is not 7.62 millimeters given in this table as the equivalent of our .30 caliber?—A. Yes, sir.

Q. That is, our present rifle is given as having a caliber of 0.30 inch, or 7.62 millimeters. That is practically true, is it not?—A. Yes, sir.

Q. Then a 7.65-millimeter gun would be a little larger in the bore than our caliber .30, would it not?—A. Yes, sir.

Q. It would be three-hundredths larger, would it not?—A. About eighteen ten-thousandths larger.

Q. No; it is the difference between 7.65 and 7.62, which would be three-hundredths of a millimeter, I mean.—A. Yes, sir.

Q. And that would be the equivalent of just one-thousandth, would it not?—A. According to that table; yes, sir.

Q. Yes; so that the 7.65-millimeter Mauser is just one-thousandth greater in caliber than our .30 caliber?—A. Yes, sir; according to the table.

Q. And that accounts for the fact that when you fire a Springfield bullet out of a 7.65-millimeter gun, the land does not make the mark quite so far up towards the point?—A. Yes, sir; but as a matter of fact the 7.65-millimeter rifles run nearer 0.302 than they do 0.301.

Q. Then this table is not accurate?—A. They always work with a tolerance, of course, in manufacturing any gun.

The CHAIRMAN. Who furnished that table to us?

Senator FORAKER. The War Department.

The CHAIRMAN. That is practically correct, but is it correct down to the ten-thousandths, out to the higher decimals? The question arises from time to time, and it seems that this table is as near as is practical, but yet it does not give down to the very small fractions.

The WITNESS. It does not go, I believe, beyond the third decimal place.

Senator FORAKER. It goes in some places to four decimal places. The length of the cartridge case is given as 2.2115. There is no practical difference between what the Lieutenant has stated and what is in the table.

By Senator FORAKER:

Q. Now, there are quite a number of 7.62-millimeter guns in use in the different armies of the world, are there not?—A. 7.62?

Q. Yes.—A. No, sir; I do not think there are a great many of those.

Q. I will ask you to look at this table. I want to put this in the record, simply. According to this table, the arm used by the Mexican army is a Muser, 7 millimeters in saliber, is it not?—A. Yes, sir.

Q. And the arm used by Argentina is a Mauser, 7.65 millimeters, is it not?—A. Yes, sir.

Q. Then Brazil uses a gun of 7 millimeters?—A. Yes, sir.

Q. Orange River uses a 7-millimeter Mauser?—A. Yes, sir.

Q. Chile uses a 7-millimeter gun and Colombia uses a 7-millimeter gun?—A. Yes, sir.

Q. Peru has a gun of 7.65 millimeters, has it not?—A. Yes, sir.

Q. Uruguay uses 7 millimeters; Austria-Hungary has the Mannlicher, which is 8 millimeters. There is another 8-millimeter gun used by France, but that is a different gun; that is the Lebel gun; but all these 7-millimeter guns have four lands, have they not, all that I have called attention to, according to this table?—A. Yes, sir.

Senator LODGE. Most of those are 7 millimeters.

Senator FORAKER. Yes; most of them are. Peru has one at 7.65, and Bolivia 7, and Russia has a Mouzin, a 7.62-millimeter gun. Turkey has 7.65.

By Senator FORAKER:

Q. All those different countries I have mentioned have 7.65, have they not?

Senator WARNER. All what countries?

Senator FORAKER. That I have just mentioned now. They all have 7.65 millimeters, each with four lands.

(The stenographer here read the countries mentioned by Senator Foraker using the 7.65-millimeter gun, as follows: Argentina, Peru, and Turkey.)

By Senator FORAKER:

Q. 7.65 and 7.62 are practically the same, are they not?—A. They differ by three one-hundredths of a millimeter.

Q. Three-hundredths of a millimeter? How much is that in inches?—A. It is about eighteen ten-thousandths of an inch.

Q. You can shoot the same bullet out of either one of those guns, can you not?—A. Yes, sir.

Q. And the marking of the lands on the bullets would be practically the same, would it not?—A. As to width; yes, sir.

Q. As to width. They would not go quite so far up on the bullet in the larger-bored guns as they would in the smaller bored, of course. That is the only difference, in the length of the land marks?—A. That, and the diameter across the grooves on the bullets would be different, of course.

Q. Now, you conducted this microscopic inspection, the report of which was submitted to us some months ago, of the shells that were supposed to have been picked up in Brownsville, did you not?—A. Yes, sir.

Q. You, and who was it that engaged in that with you?—A. Mr. Spooner.

Q. You remember the one to which I refer?—A. Yes, sir.

Q. You made that examination very carefully, did you not?—A. Yes, sir.

Q. And your report was carefully prepared?—A. Yes, sir.

Q. And entirely reliable, in your opinion?—A. Yes, sir.

Q. You would not retract anything now or modify anything that you have said in that report?—A. No, sir.

Senator FORAKER. That is all.

By Senator LODGE:

Q. You have been for some time at Springfield?—A. Yes, sir.

Q. And you have been in charge, or partly in charge, of the manufacture of rifles?—A. Yes, sir; I have had charge of several of the shops at Springfield.

Q. And therefore you have a thorough practical knowledge of the manufacture of guns and rifles?—A. Yes, sir; I think so.

Q. These nine Brownsville bullets all had the marks of four lands on them?—A. Yes, sir.

Q. There was none there with the marks of any more lands?—A. No, sir.

By Senator FORAKER:

Q. And you have given the dimensions of the bullets and the weight of the bullets, respectively, accurately in your report, I suppose?—A. Yes, sir.

Q. And as nearly as you could you have measured accurately the width of the grooves and the lands?—A. Yes, sir.

Q. In other words, the report puts before us in epitome everything you know in regard to the subject, as the result of that investigation?—A. Yes, sir.

By Senator BULKELEY:

Q. How long have you been in Springfield?—A. I was there from September, 1905, until the 1st of May of this year.

Q. About a year and a half?—A. Yes, sir.

Q. Where were you before you went there?—A. I was stationed at Sandy Hook.

Q. At the proving grounds?—A. Yes, sir; for about fourteen months before that.

Q. Had you had any experience in manufacturing before you went to Springfield?—A. Yes, sir; I graduated from a manual training school and also studied at Cornell in the engineering department.

Q. You had had the scientific training in the schools?—A. Yes, sir.

Q. But that is all the actual manufacturing you have ever been engaged in, in the year and a half or more you have been in Springfield?—A. Yes, sir.

By the CHAIRMAN:

Q. We have here in this volume the report which you made, and we have in this evidence we have taken another report which the clerk of the committee will give you, and of course your testimony given to-day will be printed to-morrow. I want to suggest, unless you have proofread them very carefully, that you do proofread all three of them.—A. Yes, sir.

Q. I suggest that because they are so technical; just as I asked the question, how far down the decimals went. We want to know all about it. We want to know exactly what it is, if we should stop at

the first, second, third, or fourth decimal. We want to know where we are, in the figuring.—A. Yes, sir.

Q. I understood from you that these tables are made up without extending the decimals, usually, down beyond the second or third figure, in giving dimensions?—A. That table that I just saw?

Q. Yes.—A. It appears to be accurate up to and including the third place, but not beyond that.

By Senator FORAKER:

Q. You are stationed here now, are you?—A. Yes, sir.

Q. On duty in the Ordnance Department?—A. Yes, sir.

Q. Since what time?—A. Since the 1st of May.

Q. We would not have to send to Springfield for you if we wanted you again, then?—A. No, sir.

TESTIMONY OF LIEUT. COL. FRANK BAKER, U. S. ARMY.

Lieut. Col. FRANK BAKER, U. S. Army, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Your name in full is Frank Baker?—A. Yes, sir.

Q. What is your age?—A. Fifty-seven years.

Q. What is your rank in the Army?—A. Lieutenant-colonel, in the Ordnance Department.

Q. How long have you been connected with the Army?—A. Twenty-five years in the Army and four years at the Military Academy.

Q. Where are you on duty now, Colonel?—A. At San Antonio Arsenal, Tex.

Q. How long have you been on duty there?—A. Since November 12, 1906.

Q. You were a member of the Penrose court-martial, were you?—A. Yes, sir.

Q. Did Mr. Purdy exhibit to you a lot of exploded shells and cartridges at San Antonio?—A. Yes, sir.

Q. About what time was that, Colonel?—A. It was some time. I think, in the month of December. I have no means of fixing the exact date.

Q. That was the only time that he exhibited them?—A. Yes, sir.

Q. Those were cartridges and bullets, or whatever they were, alleged to have been picked up in the streets of Brownsville, were they?—A. Yes, sir.

Q. About how many of those cartridges were there that you saw?—A. Well, I did not count them. I should think there were at least a dozen empty shells and three or four loaded cartridges.

Q. What ammunition was that, Colonel—those loaded cartridges?—A. That was identical in its markings with the Government ammunition which is used in the model 1903 rifle, so called.

Q. And the exploded shells, to what ammunition did they belong?—A. To the same, with this exception, that some of those shells, as I recollect it, belonged to ammunition which had been made by private manufacturers, which manufacturers had been making cartridges for the Government.

Q. When you speak of private manufacturers, what do you mean by that?—A. The United States Cartridge Company, of Lowell, Mass.; the Winchester Repeating Arms Company, of New Haven, Conn., and the Union Metallic Cartridge Company, of Bridgeport, Conn., are the ones I have in mind.

Q. They manufacture the cartridges for the Government also?—A. Yes, sir.

Q. Could those cartridges—that is, that ammunition—have been fired from a Krag?—A. No.

Q. Why not?—A. I tried the shells which were shown to me, in a Krag rifle, and it was impossible to insert them into the chamber by about half an inch, as I recollect. It was a material distance, evident to the eye.

Q. They were too long, were they?—A. Too large.

Q. Too large?—A. Yes, sir.

Q. But it was the Springfield ammunition?—A. Ammunition suited to the Springfield rifle; yes, sir.

Senator WARNER. I think that is all.

Senator FORAKER. That is all.

TESTIMONY OF MRS. KATIE EMMA LEAHY.

Mrs. KATIE EMMA LEAHY, being first duly sworn, testified as follows:

By Senator WARNER:

Q. Your name in full, Mrs. Leahy.—A. Katie Emma Leahy.

Q. Is your husband dead?—A. Yes, sir.

Q. He was a soldier, was he not?—A. Yes, sir.

Q. Of what regiment?—A. The Eighth Cavalry.

Q. And where is your home now?—A. Brownsville, Tex.

Q. How long have you lived there?—A. All my life.

Q. What is your business there, Mrs. Leahy?—A. Hotel keeper.

Q. You run what is called the Leahy Hotel?—A. Yes, sir.

Q. How long have you been conducting that house?—A. About two and a quarter years, since February 8, 1905.

Q. What is the location of your house there with reference to the streets? That is, what street is it on?—A. On the corner of Elizabeth and Fourteenth streets.

Q. It is on the corner?—A. Yes, sir.

Senator BULKELEY. No. 3 on the map.

By Senator WARNER:

Q. You were there when the colored troops came there?—A. Yes, sir.

By Senator OVERMAN:

Q. Does your house extend back from Elizabeth street to the alley, or is there a back yard?—A. There is a wood shed directly on the alley, and then there is a small yard, probably about 6 feet between the kitchen and this wood shed, and the bathroom is on the alley. It extends just from there to the main street.

By Senator BULKELEY:

Q. Is that covered or uncovered, between the kitchen and the wood shed?—A. It is uncovered, just a small piece.

Q. The wood shed is separate?—A. Yes, sir; the wood shed is separate. There is just a width of about 10 feet between the kitchen and the wood shed.

Q. How large is the wood shed, would you think, about?—A. The wood shed, bathroom, and outhouses run the length of the lot, from across the back part of the alley, and that is about 12 feet wide.

Senator FORAKER. Making 18 feet.

By Senator WARNER:

Q. Twelve feet deep and then extending the depth—A. The house runs like this [illustrating], and it runs the whole length across here—the wood shed, bathroom, and outhouses. Then there is a small space of about 10 feet, 8 or 10 feet, between this wood shed and my kitchen wall.

Senator OVERMAN. About 18 feet from the kitchen wall to the alley.

By Senator LODGE:

Q. The wood shed is on the alley, is it?—A. (Referring to the map.) This is the alley. The alley is just about a foot farther out than this here.

By Senator LODGE:

Q. This is that alley here?—A. Yes, sir; there is at least 18 feet there between there and the alley. I have never measured it, but that is my guesswork.

Q. Between the alley and the house?—A. Yes, sir.

By Senator SCOTT:

Q. Eighteen feet?—A. Fully; yes, sir; that is, if I am guessing right.

By Senator WARNER:

Q. And in that space is the wood shed, and back on the alley?—A. Within this 18 feet; yes, sir.

Q. You were in Brownsville when the colored troops came there, the Twenty-fifth?—A. Yes, sir.

Q. You never had had any trouble with the colored troops?—A. No, sir; none whatever.

Q. Did you have any objection to the colored troops coming there?—A. None whatever, sir.

Q. Nor any objection nor prejudice against a soldier, whether white or black?—A. None whatever, sir.

Q. You were in Brownsville on the night of August 13, the night of the shooting up of the town?—A. Yes, sir.

Q. Where were you at the time the shooting commenced?—A. Inside my bedroom.

Q. Had you gone to bed?—A. No, sir.

Q. In what direction was the first shooting you heard?—A. In the direction of the post.

Q. And then how did it proceed? Did it come towards your house, down in that direction?—A. It did, sir.

Q. Are you accustomed to hearing the reports of the guns that the soldiers had in the fort there?—A. I have occasionally, sir, during target practice—I have heard them at target practice.

Q. The reports of those guns that you heard that night, the best you could tell, were they the reports of army guns that you heard?—

A. They were high-power rifles. As for saying that they were army guns, I would dislike to say so.

Q. What is that?—A. They were high-power rifles. that is all I could tell.

Q. High-power rifles. Now, the parties doing this shooting, in the first place, you located near the fort, or at the fort?—A. Yes, sir.

Q. And then did they apparently come down the alley?—A. Did what? May I ask what was that question?

Q. The parties doing the shooting, how did they proceed, up into the town?—A. Well, I heard the shooting first, and I went upstairs and saw them shooting off of the galleries.

Q. Off of the galleries?—A. Yes, sir.

Q. Is the gallery in sight from your window?—A. Not my bedroom, but from a window where I went, upstairs.

Q. Where was that window or room located in your house?—A. It was the third window in the upstairs, from the alley.

Q. The third window from the alley?—A. Upstairs, on Fourteenth street.

Q. How many stories is your house?—A. Two, sir.

Q. This was in the second story, was it?—A. Yes, sir.

Q. And you saw this first shooting from the gallery?—A. No, sir; I heard the first shooting, and saw the fifth shot as the flash left the gun.

Q. The fifth shot?—A. Yes, sir; off of the balcony.

Q. Could you tell what barracks that was from?—A. The middle barracks, the second barracks from the river.

Q. That is what we call barracks B, as it is marked on the map there?

By Senator SCOTT:

Q. Was it this barracks to the left of the gate as you go in there?—

A. It was the second barracks. I could not see the first to the river. It was the second to the river.

By Senator OVERMAN:

Q. The second to the river. Here is the river down below there.—

A. Then it would be B barracks that I saw, for it was the second barracks.

By Senator WARNER:

Q. The second barracks from the river?—A. Yes, sir.

By Senator LODGE:

Q. (Pointing to the map.) This is the first one from the river, and this is the second one?—A. That is the one there—from that barracks.

Q. B barracks?—A. On the back balcony.

By Senator WARNER:

Q. It was the flash of the fifth shot that you heard from there?—

A. I heard it and saw it.

Q. Saw it, I mean.—A. I saw the sixth, saw the seventh, saw the eighth, and saw the ninth.

Q. Now, after that, Mrs. Leahy, where were the parties, so far as you could judge, that were doing the shooting?—A. They were shooting indiscriminately then on the galleries, and it seemed to be between the wall and the barracks. I went downstairs and walked out

into the street, because I thought it was a fire on Elizabeth street. When I was on the street the bullets flew around me.

Q. And then where did you go?—A. The first volley sort of stunned me for a moment. It surprised me. When the second volley came I realized that the town was being shot on, and I went back and went upstairs into this window and watched them still shooting off the barracks and heard them shooting in the post.

Q. At first you thought it was a fire?—A. I did, sir.

Q. Now, did you see the parties near your place when they came down there near your house?—A. Yes, sir; after that—some time after that.

Q. Well, what did you see there?—A. I heard them still shooting up the alley. They stopped at the mudhole, turned around, and shot into the Cowen house. They walked around the mudhole and then shot into the Cowen house.

Q. The Cowen house is just across Fourteenth street from your house?—A. Yes, sir. They stopped in the middle of the street. When they stopped in the middle of the street one man touched the other on the shoulder and looked up at the window where I was and said something that I could not understand. The other man looked up and said, "No; keep straight ahead and shoot to the front," and a volley was shot down the alley towards the Miller Hotel.

Q. You heard those voices. Did you see the faces of the party?—A. Distinctly—of those two men only.

Q. Of those two men. What were they—colored men or white men?—A. They were two negroes. One was a black man, the other was a yellow-faced negro, with spots on his face, and distinctly negro features.

Q. How were they dressed—in citizens' clothes or soldiers' uniforms?—A. No, sir; they had soldier clothes on—khaki suits on—and one had a blue shirt.

Q. They were in plain view of you at that point?—A. Clearly: yes, sir.

Q. Where were they when you saw them?—A. Right in the middle of the street, sir.

By Senator LODGE:

Q. In the middle of Fourteenth street?—A. Yes, sir.

By Senator WARNER:

Q. Well, then, which way did the shooting continue?—A. Up the alley, sir; up towards the Miller Hotel.

Q. Up towards the Miller Hotel?—A. Yes, sir.

Q. The Miller Hotel was on Thirteenth street?—A. Thirteenth street.

Q. Did you see any more of the parties there?—A. Yes, sir; there was fourteen other men with them.

Q. How did you know there were fourteen?—A. I counted them, and I am sure there were fourteen others; I may have made a mistake in the counting, but I doubt it.

Q. Did you notice how those others were dressed?—A. They were in khaki uniform.

Q. Were they colored soldiers?—A. I think so. I did not see them clearly or distinctly.

Q. You did not see their faces?—A. No, sir; I did not.

Q. But they were dressed in the soldiers' uniform?—A. Yes, sir.

Q. You are quite clear about that, Mrs. Leahy?—A. Yes, sir.

Q. Why was it that you saw those two, you say, so distinctly?—
.. Because they were looking up at the window when the men shot
round them. They were looking straight at me and I saw them.

By Senator SCOTT:

Q. Which way were those men facing?—A. Looking straight at
me, and I was looking at them, as they said "Keep straight ahead
and shoot to the front." I could not help but see them.

By Senator WARNER:

Q. Was your house shot into at all?—A. Yes, sir; there were two
bullet holes in my kitchen wall, and, I believe, four in the back fence.

Q. Now, these parties, in what direction were they going, if at all,
when you first saw them?—A. They were coming up the Cowen alley
towards the hotel.

Q. And they got out into Fourteenth street from the Cowen
alley?—A. Yes, sir.

Q. They were in the street; that is, the parties were going in the
direction of Twelfth street on the alley; that is, going across the
street there, were they?—A. Yes, sir.

Q. Fourteenth street?—A. Yes, sir.

Q. Did you see anything more of them that night?—A. Yes, sir.

Q. What next did you see?—A. About fifteen minutes after, my
daughter, my sister, one of Mr. Cowen's children, and Mr. Elkins
saw six of them returning to the post, and I presume an hour after,
saw one of the men that I saw shooting in the alley go back with
Captain Lyon and his company.

Q. You thought one of those men you saw with Captain Lyon was
one of those men that you saw in the street?—A. I do not think so,
sir; I am positive of it.

Q. Which one was that?—A. It was the black man, a dark, black
ace.

Q. Where were you at the time the company returned—Captain
Lyon's company?—A. I was standing at my front gate with Herbert
Elkins.

Q. How near did they pass by you?—A. About 5 or 6 feet, sir.

Q. About how many shots were fired in all there?—A. Not less
than 300, or more than 500—between 300 and 500, sir.

Q. The shooting up of the town created a great deal of excitement
here, did it not?—A. Yes, sir.

Q. Mrs. Leahy, you keep a hotel there, and a good many people
stop at your house, do they?—A. Yes, sir.

Q. From that night on have you ever heard any opinion expressed
here, other than that it was the negro soldiers who did the shooting
up of the town?—A. No, sir; unless it was some strangers from the
North that knew no better.

Q. Strangers from the North—what do you mean by that?—A. I
mean guests coming in my house; the majority of them were from the
North.

Q. Mr. Leckie stopped at your house, did he not?—A. Yes, sir.

Q. After the shooting?—A. Yes, sir; several times.

Q. What was his business there?—A. Lieutenant Leckie told me
one time he had been sent down there to examine the windows where
we saw the shooting from, also to trace the bullet shots in the houses.

Q. Did you go with him to the window?—A. I did, sir.

Q. Could you see the barracks from where you were standing there?—A. Yes, sir; two-thirds of it.

Q. You showed them to him?—A. I did, sir.

Q. What did Lieutenant Leckie say to you, if anything, about the parties who had done the shooting up of Brownsville?—A. What did he say to me about it?

Q. Yes; as to how it was done.—A. I don't think Lieutenant Leckie ever expressed his opinion in my presence.

Q. How many times was he there after the shooting?—A. Two or three times, I don't remember exactly, but it was two or three times.
Senator SCOTT. I have to go, and I want to ask this lady just one or two questions, so that I may understand her.

Senator WARNER. Certainly.

By Senator SCOTT:

Q. Madam, you say that these two men whom you saw so distinctly came up this alley between Washington and Elizabeth streets?—A. Yes, sir.

Q. And you were at the window here [referring to the map]. Did they turn up this street?—A. Yes, sir; they came up the alley, turned into Fourteenth street, and stood about where that No. 4 is, right there.

Q. Right in the center of the alley?—A. In the center of Fourteenth street. I was right in the window, right there, sir.

Q. How far was it from the window to where the two stood, when you heard them talking?—A. It must have been at least 35 feet away, sir, fully that, if not more.

Q. Were you a witness before the grand jury?—A. No, sir.

Q. If you knew that man in Captain Lyon's company, when he went back to the fort why didn't you point him out and have him arrested?—A. Because I was never asked to do so, sir.

Q. But you could have picked him out?—A. I could have picked out the two men. I am sure I could have picked out those two men if I had seen those troops at that time; and one of them, if ever I see him again I will recognize him.

By the CHAIRMAN:

Q. Did you know the men's names?—A. No, sir; I never saw them before that night.

By Senator FORAKER:

Q. Have you ever testified before?—A. I testified before Mr. Purdy and before the Penrose court-martial, sir.

By Senator LODGE:

Q. As to those two men whom you saw there in the middle of the street, were they in the light of the Cowen house?—A. No, sir; I had a lantern back of me in the window, and when they shot the guns, the flash of the guns threw the profile of their faces so clearly that I saw them as clearly as I see you at present; but it was only those two that I saw clearly, and I saw that they were colored people, and in the uniform of the United States Army.

By Senator FORAKER:

Q. There is no lamp in the alley, is there, Mrs. Leahy?—A. No, sir; the nearest lamp in the street is on the corner of Elizabeth street, and the light that I had back of me.

Q. I want to get that a little more accurately. This spot on the map to which I point, No. 3, represents your hotel?—A. Yes, sir.

Q. That fronts on Elizabeth street and also on Fourteenth street?—A. Yes, sir.

Q. And you were in your room upstairs, about to retire, as I understand it?—A. No, sir; my room is downstairs, and I went upstairs, into a room upstairs.

Q. You were downstairs when the firing commenced?—A. Yes, sir.

Q. How many shots did you hear at first?—A. Four.

Q. Well, were they fired in rapid succession?—A. No; the first three shots seemed to be a little scattering; they did not seem to come from the same gun, sir.

Q. Different kinds of guns?—A. No, sir; they were the same kind, but not as if they had been shot from one gun, and shot at a distance.

Q. They were high-power shots?—A. Yes, sir.

Q. According to the reports?—A. Yes, sir.

Q. That is the way it sounded to you—those were the very first shots?—A. Yes, sir.

Q. Now, can you tell us where those four shots were fired from?—A. No, sir; I would give a whole lot if I could. They came from the direction of the post, but I did not see them.

Q. You were downstairs in your hotel?—A. Yes, sir.

Q. Now, about where in the hotel was your bedroom?—A. Right opposite.

Q. Not in the building which is there indicated?—A. No; my back stairs run right back, and my room runs like this [indicating on the map].

Q. The wood shed and the other outhouses you speak of front on the alley?—A. Yes, sir.

Q. And they are about 12 feet in depth?—A. Yes, sir.

Q. They run from Fourteenth street up the alley a distance of how far?—A. Fifty feet, I think.

Q. Then you have a separate, detached building from that shown on this map?—A. Yes, sir.

Q. In that detached building you have your bedroom?—A. Yes, sir; right in here [indicating].

Q. That is right in this court, is it?—A. Yes, sir.

Q. Made by the "L" of the house?—A. Yes, sir.

Q. And how far is it away from the main building? Do you have to go out of the main building?—A. Yes, sir; I have to go entirely out of the main building and cross the yard to get into my room, and it must be about the distance from here to that window [indicating].

Q. As far as from here to that window?—A. Surely.

Q. That would be 20 feet?—A. It is fully that, sir.

Q. Your room, in which you were about to retire, is in a separate building from that shown on this map, separated by a distance of about 20 feet from the main part of it?—A. Yes, sir.

Q. How far is it from this L to which I am now pointing?—

A. Just about that distance.

Q. About the same?—A. Yes, sir; about that.

Q. Is it that distance also from this?—A. No, sir; I do not think it is quite that far from there, and the staircase I went up was right here [indicating].

Q. You came out.—A. I came out of that room there and crossed the yard and went upstairs into the room.

Q. You heard four shots?—A. Yes, sir.

Q. While you were still in your room?—A. No, sir; I heard one, and went upstairs immediately, to see where the fire was.

Q. Did the first shot cause you to go upstairs?—A. It did, sir, because I thought it was a fire.

Q. How much time elapsed from the firing of the first shot until the second, third, and fourth shots?—A. It must have been two or three seconds.

Q. They were all fired, then, before you went upstairs?—A. Those four were; yes, sir.

Q. Those four were all fired before, and you could not locate them accurately?—A. No, sir.

Q. Because that building was between you, evidently, and where they were firing?—A. Yes, sir; I don't know where they came from.

Q. You went upstairs, then, into what story of that building?—A. The second story.

Q. Is that a two or a three story building?—A. Two-story.

Q. Only two stories; and how many rooms are there in the L part fronting on Fourteenth street?—A. Three.

Q. Well, were you in one of the rooms in this L part? I call the narrow part the L part.—A. Yes, sir.

Q. Is the front of that a two-story building?—A. No, sir.

Q. That is only one story?—A. Yes, sir.

Q. So that it is only the rear that is two stories, and you were in which one of those rooms—the one next to Elizabeth street?—A. Yes, sir; the one next to Elizabeth.

Q. Now, about how long is this L, the narrow building? That is, how far was it from the rear of your building to the window out of which you looked?—A. I should judge, sir, about 30 feet.

Q. You said your wood shed stood on the alley, fronting on the alley, and it was 12 feet?—A. Yes, sir.

Q. And then you thought it was 10 feet from the wood shed to the rear of your kitchen?—A. Yes, sir.

Q. Your kitchen is at the rear of this second-story L?—A. Yes, sir.

Q. That would be 12 feet for the wood shed, and 10 feet for the space between would be 22, and then what is the size of those rooms upstairs—are they all the same size?—A. No, sir; the room I was in is a good deal larger than the other two.

Q. How large was the room on the end of that L?—A. I never measured it.

Q. No; but can you get at it?—A. Yes, sir; I think about 12 feet wide.

Q. And that was occupied by Mr. Elkins?—A. Mr. Elkins, and the next by Mr. Parks.

Q. By Judge Parks?—A. Yes, sir; and I was in the next window. The other window was right here, about in the middle.

Q. The Elkins room would be about 12 feet, and Judge Parks's room about 12 feet?—A. Yes, sir; I think so.

Q. And then the room you were in was about how large a room?—A. Mine was a little bit larger, probably 14 feet, but the window was in the middle.

Q. So that it would be 12 feet for the wood shed and 10 from the wood shed to the rear, then two rooms of 12 feet each, 24 feet, would make 46 feet, would it?—A. It would, fully, sir.

Q. And then your window was about in the middle of your room?—A. I think it was about 50 feet from the window where I was to the alley.

Q. About 50 feet from the window where you stood to the alley?—A. Yes, sir.

Q. Now, you saw first the flashes of shots from B barracks?—A. Yes, sir.

Q. And I understood you to say that you had counted so accurately that this flash that you saw was the flash of the fifth shot that you heard?—A. Yes, sir.

Q. And then you heard the sixth, the seventh, the eighth, and the ninth?—A. Yes, sir.

Q. And saw the flashes also?—A. Yes, sir.

Q. They were all fired one after another, from the rear of B barracks?—A. Yes, sir.

Q. You could not be mistaken about that?—A. No, sir.

Q. You were looking out of that window in the upper story of your L at that time?—A. Yes, sir.

Q. What was immediately opposite you?—A. My house and the Cowen house, with a yard between.

Q. That is to say, you had an annex fronting on Elizabeth street, on the opposite side of Fourteenth from you?—A. Yes, sir.

Q. Running back towards the Cowen house?—A. Yes, sir.

Q. And about what is the distance from the Cowen house to the rear of that annex of yours? What is the space between the two houses?—A. It must be fully the width of this room; that is, 20 to 25 feet, I think.

Q. Well, this is 25 feet wide.—A. Fully as wide as this.

Senator WARNER. I will say this room is 20 feet wide.

By Senator FORAKER:

Q. Well, 20 feet.—A. Remember that I am not a mathematician. I have no education. You ask me these things, and I am guessing at them. If you wanted exact measurements, you should have told me and I would have taken them before I came up here.

Q. No, we don't want that. All we want is just your best judgment. We understand that. Your view of the barracks was from your window up in that upper story, out between the Cowen house and the rear of your annex?—A. No, sir; the side of my house, not the rear; the side of my house and the Cowen house both face in Fourteenth street.

Q. Yes; I understand they do.—A. This is my house.

Q. Your view, I say of the barracks was gotten from the window, looking between the two houses, out to the barracks?—A. I saw two-thirds of it.

Q. Well, I will get to that. Now, is there anything standing between the rear of your annex and the Cowen house?—A. Yes, sir; an orange tree.

Q. There is an orange tree standing there, isn't there?—A. Yes, sir.

Q. That was in August. Was that in leaf at that time?—A. I don't know.

Senator FORAKER. Let me have the copy of the Purdy testimony.

Senator LODGE. Here is the photograph.

By Senator FORAKER:

Q. We have a picture here [showing witness picture No. 13].—A. That is it, but that picture was taken several months after.

Q. When was it taken—in December, was it not?—A. When Mr. Purdy was there. He was down the latter part of December. Yes, I believe, that is correct.

Q. He was there Christmas week, was he not?—A. Yes, sir.

Q. And he took the picture Christmas week?—A. Yes, sir.

Q. This tree probably had as many leaves on it in August as it did Christmas week?—A. Maybe more.

Q. More, I should judge it would have.

Senator LODGE. I did not know that orange trees shed their leaves.

A. No; but it did not obstruct my view.

By Senator FORAKER:

Q. We see in the picture a tree. It did not obstruct your view at all?—A. No, sir.

Q. You saw right through that tree?—A. I saw through the leaves and over that.

Q. You saw through the leaves?—A. I saw through that and saw them on the gallery; saw men moving and saw the shooting.

Q. You saw the men who were doing this firing moving back and forth, did you?—A. Yes, sir.

Q. You saw them by the light of the flashes of the guns?—A. And lanterns that they had.

Q. And they had lanterns, too?—A. Yes, sir.

Q. Walking up and down there?—A. Yes, sir.

Q. How many men did you see moving back and forth on the upper porch of B barracks?—A. I never counted them.

Q. Well, can you give us any idea?—A. No, sir.

Q. All you can remember is that you saw men?—A. Moving back and forth.

Q. Were they in uniform?—A. I could not tell you, sir; could not see.

Q. Could you tell?—A. No, sir; I could not see that far.

Q. Well, you could see that there were men there moving back and forth?—A. Yes, sir; I could see that there were men moving back and forth, but I could not tell at that distance what they had on.

Q. You could not tell what they had on. Could you tell whether they had guns?—A. No, sir; but when they shot I saw the flashes of the guns. I knew they were guns. Anyhow, I heard the reports and supposed they were guns.

Q. You heard the reports when they fired and you saw the flashes of the guns. Didn't they light up the situation so you could see?—A. Yes, sir; but not at that distance; I could not see.

Q. Not at that distance?—A. No, sir; that is about 280 or 300 feet away from me.

Q. What kind of a night was that?—A. It was what I would call a dark, starry night, sir.

Q. More than usually dark—a dark, starlight night?—A. Yes, sir.

Q. But it was more than usually dark, was it not?—A. Well, I would call it a dark, starry night. I don't know what you would call it. It was a dark night and starlight.

Q. That is all right. Now, let us get back. You saw these men fire, and then, at sometime, you went downstairs again, as I understood your testimony?—A. I did.

Q. Just when was that? You will excuse me for asking you, because I could not hear everything you said in reply to Senator Warner.—A. I am up here to be asked anything you care to, and I will answer you truthfully and to best of my ability.

Q. Yes; I have no doubt you will answer to the best of your ability.—A. Oh, and truthfully, remember.

Q. Now, let me ask you at what time it was you went downstairs again?—A. I went downstairs while these men were shooting in the Cowen alley and let two policemen into my yard and locked them in the bathroom.

Q. You saw just two men come up the alley, did you?—A. No, sir.

Q. Let me get it correctly. You first saw two men, did you?—A. No, sir; I did not.

Q. You did not see two men?—A. No, sir; there were sixteen of them.

Q. Didn't you state to Senator Warner that you first saw two men come up the alley?—A. I saw two men distinctly, but I did not see those two men come up the alley alone.

Q. You saw sixteen?—A. Yes, sir.

Q. You counted them; saw them distinctly.—A. Only two distinctly.

Q. You saw only two distinctly?—A. Distinctly; yes, sir.

Q. And you saw them distinctly when—when they fired their guns?—A. Yes, sir.

Q. By the flashes of the guns?—A. Yes, sir.

Q. There was no other light by which you could see them?—

A. Only the corner lamp and the lantern that I had back of me.

Q. Only the what?—A. Only the corner lamp and the lantern I had back of me.

Q. The lamp on the corner is this lamp on Elizabeth street?—A. Yes, sir.

Q. Do you think that throws any light on the alley down at Fourteenth?—A. Yes, sir.

Q. It threw light all the distance down there?—A. Not all the distance, but part of it. Some trees shade the other part of the street.

Q. Are there any trees in front of your house on Fourteenth street?—A. Yes, sir; they shade part of the street.

Q. A row of trees is right along there, isn't there?—A. Two.

Q. Two trees?—A. Yes, sir.

Q. Not two rows of trees?—A. Two trees.

Q. And then there is a tree right opposite the Cowen house, on the corner, is there not?—A. Yes, sir.

Q. What kind of a tree is that?—A. I believe they are ash trees.

Q. What kind of trees are those two in front of your house?—A. Ash trees.

Q. How tall are they? Are they as tall as the house?—A. Oh, yes, sir.

Q. Now, when these 16 men came up, then, they came up all together, did they?—A. There was two, and a few feet farther back there was four, and then ten.

Q. And then ten?—A. They were within a space. I suppose—the space was probably as far as from here to that gentleman there.

Q. You saw the two first?—A. Yes, sir.

Q. And then how far was it back to the four?—A. They were 2 or 3 feet back.

Q. You saw four men more, and then how far back were the other ten?—A. A few feet back were the other ten. They seemed to be scattered. They did not seem to be just exactly together; seemed to be bunched.

Q. These ten were scattered?—A. Yes, sir; seemed to be bunched.

Q. Were the four marching abreast?—A. No, sir; two, and then the other two back of them.

Q. So they came up two by two?—A. Well, I don't know as you would call it two by two; two in front and a space, and then back of them were four, and then these others were bunched.

Q. The four were two by two, were they?—A. Yes, sir.

Q. And the ten were in a bunch?—A. Yes, sir.

Q. Now, who did the firing there at the corner?—A. Those men did.

Q. The two men, or did all join in the firing?—A. Two men shot at that mudhole, and then——

Q. Let me locate that mudhole, now. Where was that—in the alley before they got to Fourteenth street?—A. No, sir; right in front of the Cowen house, right at the right of the tree.

Q. The mudhole was just as they came out of the alley onto Fourteenth street?—A. Yes, sir; but in front of the Cowen house.

Q. In front, you mean by the corner of the Cowen house?—A. Yes, sir.

Q. The mudhole was in the alley, was it not?—A. No, sir; on Fourteenth street.

Q. On Fourteenth street—the mudhole was on Fourteenth street, right at the edge of the alley?—A. Yes, sir.

Q. And you said they walked around the mudhole?—A. Yes, sir.

Q. And did they stop right at the mudhole?—A. Stopped right in front of the mudhole.

Q. Right in front of the mudhole; that is, on Fourteenth street?—A. Yes, sir.

Q. And then from that point they shot into the Cowen house?—A. I saw them shoot back, but I would not like to say it was into the Cowen house, sir.

Q. Did you see any shooting into the Cowen house?—A. I did.

Q. I mean, except what they did there?—A. At the mudhole?

Q. Yes.—A. The time that I saw them shoot deliberately into the Cowen house was when they started to go up the alley; some of them started up Fourteenth street, turned back, and shot into the Cowen house, and went on up the alley.

Q. Was that before they reached the mudhole?—A. It was after, and after they had crossed the street; after I had seen them, sir.

Q. That is, they did not shoot into the Cowen house, so far as you observed, until after they had passed the mudhole and had crossed Fourteenth street?—A. I thnik—when I saw them shooting at the mudhole, I think they shot up in the air. They seemed to shoot over. They held their guns up like that [illustrating], and it seemed to go over the houses.

Q. That was right at the corner of the alley and Fourteenth street?—A. Yes, sir.

Q. Then they passed to the other side of Fourteenth street—that is, the side opposite the Cowen house—and stopped and fired from a point—A. They stopped in the middle of the street again, and that is when I saw those negroes.

Q. I wish you would take this pointer and step to the map and tell me just where they stood when they were doing the firing.—A. When I first saw them, I saw the flash of the guns right here [indicating], but I could not see them.

Q. You saw the flashes of the guns, but could not see the men at all?—A. I could not see the men at all; I could only see the light and hear the reports of the guns there. When they got here to the mudhole they stopped and walked around it, and then they shot back, and it seemed to me the guns were pointed over the houses.

Q. That is, they shot into the air?—A. Yes, sir; and one of the men turned around; it seemed his gun got caught; I don't know what happened to it, and the other man seemed to help him with it, and they walked in the middle of the street. There is where they looked up and saw me at the window.

Q. That was right in there [indicating on the map]?—A. Yes, sir; right in there.

Q. Right in the middle of the alley and the middle of Fourteenth street?—A. Yes, sir; and that is when I saw two of those men.

Q. At that time?—A. Yes, sir; and then is when he said, "Keep straight in front and shoot ahead."

Q. That is the nearest point they were to you?—A. He recognized me. He could not help but recognize me. They said, "Mrs. Leahy."

Q. You heard them say, "Mrs. Leahy?"—A. I heard them say, "Mrs. Leahy. Keep straight to the front and shoot ahead."

Q. You heard them say, "That is Mrs. Leahy?"—A. Not "That is Mrs. Leahy," but "Mrs. Leahy. Keep straight to the front and shoot ahead." They were both looking up, and the other men were shooting around them, and I could not help seeing those two men.

Q. Right there the men round about them fired?—A. Yes, sir.

Q. Where did they fire—in what direction?—A. Up the alley.

Q. Up toward the Miller Hotel?—A. Yes, sir.

Q. They were not then firing back towards the Cowen house?—A. No, sir.

Q. About how many shots were fired right about there?—A. I think there must have been about ten of them shooting—eight or ten.

Q. And while eight or ten were shooting around them, they were looking up at you, and then you could see them distinctly?—A. I saw them distinctly.

Q. One was a very dark man, a negro, and the other was a mulatto?—A. Yes, sir.

Q. And the mulatto had a spot on his face?—A. He had spots on his face. I could see spots, something on his face; I could not see distinctly, spots or pimples or something. I could see spots on his face.

Q. I do not know that I understand you. You saw spots, but can not tell whether they were pimples or not?—A. I could not tell. They were spots, blacker than his face.

Q. About how many spots were there?—A. I could not possibly tell. I did not count. I saw spots all over his face.

Q. If he was such a singularly spotted man as that, he would be easy to find, wouldn't he?—A. I think if ever I lay eyes on the man I will recognize him.

Q. You think you would?—A. Yes, sir.

Q. And is he the man that you saw in Captain Lyon's company?—

A. No, sir; it was the black man I saw in Captain Lyon's company.

Q. You did not see the spotted man in with him?—A. No, sir; I have never seen him since.

Q. But the black man who was with him you did see?—A. I saw him with Captain Lyon's company.

Q. What was there about him that enabled you to distinguish him from everybody else?—A. His features. I believe, sir—I dislike to say that I could recognize him to-day, but I did that night.

Q. You recognized him, then, distinctly?—A. Yes, sir; then I did. I saw those men leave there, and they started up this way; some started up the alley, and some started this way. Those two that started this way turned back, when they got out of the alley, turned back and shot into the Cowen house. That is one of the shots that broke the mirror.

Q. Two men turned from the alley, up towards your house?—A. Yes, sir.

Q. And came in as far into the alley, according to the way you pointed, as to the rear of your house?—A. No, sir; they came up about 5 feet.

Q. About 5 feet from the alley, into Fourteenth street?—A. Yes, sir; then they turned.

Q. Shot into the Cowen house?—A. And went back up in the alley.

Q. And when they got into the alley at Fourteenth they turned and shot into the house?—A. Yes, sir.

Q. And that is the shot that broke the mirror?—A. I am sure, sir; one of the shots that broke the mirror.

The CHAIRMAN. Will you ask her whether the two men who did that were the ones she recognized?

By Senator FORAKER:

Q. Were those the two men that you recognized?—A. I don't think they were. At that point I could not say whether they were the same men or not.

Q. Did you see anybody down here right immediately in front of your house?—A. Firing—no sir.

Q. Nobody there?—A. No, sir.

Q. Could you, from where you were, see those men who were firing into the rear of the Cowen house while they were yet in the alley?—A. No, sir; I could not.

Q. You could not see that?—A. No, sir.

Q. And then when they went up the alley around the corner they disappeared from your sight?—A. Yes, sir.

Q. And that is the last you saw of them until you saw them returning?—A. I saw six return, sir.

Q. Six of the fourteen?—A. Yes, sir.

Q. And they came down Elizabeth street?—A. No, sir; they went back by the alley, the way they came.

Q. And where were you when they passed?—A. In the same window.

Q. You were still in your window?—A. Yes, sir.

Q. At what point was it that you left this room upstairs, and your position at the window, and went downstairs?—A. I left that window three times, sir, during the shooting. I went out on Elizabeth street once. I went downstairs and put some policemen in my bathroom, hid them.

Q. I will get to that in a minute.—A. Then I went across and brought the Cowen family over into my house, before I saw those men go back.

Q. The first time you left, you went upstairs and looked out and saw them firing from the upper gallery of B barracks?—A. Yes, sir.

Q. And you stood there and watched awhile, and then for some reason you went downstairs?—A. I went downstairs because when I saw them shooting off the galleries, I was positive it was a fire in the post, and my house opposite was empty that night, and for my own self-protection I went over to take care of my own property, and walked out in the middle of the street to see where the fire was at, and the bullets flew around me, and I realized that the town was being shotup.

Q. You went downstairs and came out on the Elizabeth street front of your house?—A. Yes, sir.

Q. And passed out onto Elizabeth street?—A. Yes, sir.

Q. Crossed Fourteenth street?—A. Oh, no.

Q. Over to your empty house?—A. No, sir; I walked out in the alleyway and stood right out there. This is my alley—a little alleyway in there—and that is always left open for the benefit of guests that come in late at night, and I stood right out here.

Q. You stood right in front of your house?—A. Yes, sir.

Q. You did not go over to the other house?—A. No, sir.

Q. While you were standing here shots were passing over your head?—A. Yes, sir; all around me.

Q. Where did they seem to come from?—A. I saw flashes come from this gate and from here [indicating].

Q. You saw flashes coming out of the main gate of the garrison?—A. Yes, sir.

Q. And coming over the garrison wall?—A. Yes, sir.

Q. East of the gate?—A. On that side.

Q. On the side of the gate opposite from the river?—A. No, sir; this way. I stood here facing the gate. They came this way.

Q. They came from the gate towards you?—A. To the left of the gate.

Q. They came from over the wall to the right of the gate as they looked out towards you?—A. Yes, sir.

Q. And to the left of the gate as you looked up towards them?—A. Yes, sir.

Q. You could see those flashes?—A. I could, sir.

Q. How many shots were fired down the street while you were standing there?—A. I don't know.

Q. You have no idea?—A. No, sir.

Q. No idea whatever?—A. None whatever. They sounded like a whole lot to me while I was standing out there.

Q. Sounded like a whole lot. How long do you think you stood there?—A. I suppose it must have been a couple of seconds. They shot a second time, and that brought me back to my senses and I got in.

Q. You stood there long enough to see a lot of shots from the gate and a lot of shots from the wall by the side of the gate?—A. Yes, sir.

Q. Then you went back into your house and went upstairs?—A. Yes, sir.

Q. And looked out again towards this second barracks?—A. Yes, sir.

Q. And then you saw them still firing from the upper gallery?—A. I saw a few shots from off the upper gallery, and a few shots came from the bottom gallery. They seemed to me from the top gallery and the bottom gallery.

Q. That is, they were firing from the lower gallery as well as from the upper gallery?—A. I saw flashes from the lower gallery and the top gallery.

Q. About how many shots did you see—how many flashes from the lower gallery?—A. I did not count them, sir; I don't know.

Q. Give us some idea.—A. I can not do it. I did not keep track of them at all.

Q. You counted at the beginning?—A. Yes, sir; because it was customary for me to count shots when I would hear them.

Q. It is customary. Do you hear shots frequently?—A. Occasionally.

Q. Occasionally, and you always count the shots?—A. Yes, sir.

Q. You counted the first shots, but those got too many for you, and you stopped counting?—A. Oh, I had stopped counting long before that.

Q. How long did they fire from the upper gallery and the lower gallery, then, after you went upstairs the second time?—A. Oh, I don't know, it must have continued fully ten minutes from the time of the first shots until I saw them shooting at the Cowen house.

Q. Until you saw them shooting into the Cowen house?—A. Yes, sir.

Q. That was fully ten minutes?—A. Yes, sir.

Q. From the time when you saw the first shots until you saw them shooting into the Cowen house?—A. Yes, sir.

Q. Was it when you went back up there the second time that you saw those men come down the alley and cross Fourteenth street?—A. No, sir; I had already been down a second time out of that room, sir.

Q. You saw those men come down the alley and cross Fourteenth street?—A. Yes, sir.

Q. Before you went down the first time, didn't you?—A. Oh, no; oh, no, sir; long after that.

Q. Long after that?—A. Yes, sir; ten minutes is a long time when there is a lot of shooting.

Q. Yes; it is a good while. We want to get as near the facts as we can. So it was after you went up the second time that you saw the men come down the alley and cross Fourteenth street?—A. Yes, sir.

Q. Well, was it while you were there the second time that you saw it?—A. That I saw what?

Q. Saw these men come down and do that shooting at the corner of the alley and Fourteenth street?—A. Yes, sir.

Q. Then, at the same time you saw them shooting from B barracks, did you?—A. No, sir; after they came out in the alley I saw no more shooting in the post, sir.

Q. All this shooting was before they came into the alley?—A. Yes, sir; the shooting that I saw from the barracks was all before they came into the alley.

Q. How long was it from the time you saw the first shots until you saw them shooting here at Fourteenth and the alley?—A. It must have been ten minutes, fully.

Q. About how long did that firing continue after?—A. I think the firing must have continued about ten minutes longer.

Q. About twenty minutes all together?—A. The firing, from the first shot until I saw those men returning back to the post, was just thirty minutes.

Q. And the firing continued down the alley towards the Miller Hotel?—A. Yes, sir; it must have been ten or fifteen minutes that they kept shooting up the street.

Q. Well, now, you said you went down a second time?—A. Yes, sir.

Q. Was that after they had crossed the alley?—A. No, sir.

Q. Crossed Fourteenth street, I mean?—A. No, sir.

Q. Were they still at Fourteenth and the alley?—A. No, sir; they were up in the Cowen alley somewhere, and two policemen came along and asked where the fire was, and I told them there was no fire, that the negroes were shooting up the town, told them to jump in at my gate, and I put them in my bathroom, and told them under no penalty to leave there until I told them, for no reason whatever to leave there, it did not matter who came in; to stay there until I let them out; which they did.

Q. And they did that?—A. Yes, sir; I am to blame for it. I showed my cowardice by not leaving them out there and fighting with them.

Q. Nobody has made any charges against anybody on that account that I know of. Was it the second time you came downstairs that you discovered them?—A. It was the second time. It was only about two seconds after that that I saw those soldiers cross that street.

Q. This was when you came downstairs the first time or the second time?—A. The second time, sir.

Q. I understood you to say it was when you went back upstairs the second time that you saw the soldiers come out of the alley and cross Fourteenth street?—A. Well, that was the second time I went upstairs. The first time I walked out on Elizabeth street, and the second time I came down and put the two policemen in the house, in the bathroom.

Q. Did you see the policemen before you came downstairs?—A. Why, yes; they were right under my window, and asked where the fire was.

Q. They did not say they were running away from the soldiers?—A. They did not know the soldiers were out shooting, sir. They thought it was a fire.

Q. Were they on duty there?—A. They were—not on that block; I don't know who they were.

Q. Where did they come from?—A. I don't know.

Q. How did they happen to be there at that hour?—A. They were hunting the fire.

Q. Well, were they running or walking?—A. No, sir; they were walking.

Q. And they spoke to you while they were down on the street and you were upstairs at that window?—A. Yes, sir.

Q. They called up to you?—A. They asked me. "Where is the fire?"

Q. And you ran down and put them in the bathroom?—A. Yes, sir.

Q. Did they want to know why you wanted to put them in the bathroom?—A. I told them the negroes were shooting up the town.

Q. You told them you had already found out what was going on?—A. Yes, sir; I had, out on Elizabeth street.

Q. Don't you think they ought to have gone out and looked after that trouble?—A. No, sir.

Q. Why not?—A. They were but two men, with six-shooters, with probably half a dozen shots, and I knew the negroes were well armed. I knew the negroes would not come out to shoot up the town without they were well armed.

Q. You knew that?—A. Positively, or they would never have left the post. They never would have left the post if they had not had plenty of ammunition.

Q. At that time you did not recognize anybody?—A. I had not seen them yet. They had not come up there.

Q. So it was after you had come downstairs a second time and put the policemen in the bathroom and gone up the stairs a third time that you saw?—A. That was the second time. I only came down twice then. I went out on Elizabeth street once, and came down and put the policemen in the house the second time.

Q. What I want to know is, whether you saw these soldiers come up the alley and stop at Fourteenth street and do this firing before you put the policemen in the bathroom?—A. No, sir; I saw them about a second after.

Q. You had put the policemen away?—A. Yes, sir.

Q. In a place of safety?—A. Yes, sir.

Q. Before you had seen the soldiers, then?—A. Yes, sir.

Q. And yet you knew before you saw those soldiers that it was the negroes shooting up the town?—A. Certainly; with those shots from the post, sir, I could not help but know it.

Q. What was that remark?—A. I said I could not help but know it, when I saw the shots coming from the post.

Q. Do you know Mr. Louis R. Cowen?—A. Yes, sir.

Q. He lives right opposite you there?—A. Yes, sir.

Q. Did you see him that afternoon or that evening?—A. I saw him, sir, about a half an hour before the shooting.

Q. You saw him about a half an hour before the shooting?—A. Yes, sir.

Q. Where did you see him at that time?—A. Now, wait; that is a mistake of mine. It must have been an hour—between an hour and half an hour before—at my house.

Q. Was he in your house, or where was he?—A. He was on my front gallery.

Q. Have you what we call a porch?—A. Yes, sir; well, a porch on Washington street and on Elizabeth street, all around the house is porch.

Q. Yes; that is indicated here; that is, the porch. He came in onto your gallery and sat there and talked to you, didn't he?—A. Yes, sir; and Judge Parks, and I don't know who else. There was a couple of guests.

Q. How long did he talk with you there?—A. He must have been here probably a half an hour.

Q. What did you talk about?—A. Well, that is more than I can tell you, sir, for I don't remember.

Q. Was there anything said about any trouble likely to happen in town?—A. Yes, sir.

Q. What was that?—A. Yes, sir.

Q. Who spoke of that?—A. Mr. Cowen and Mr. Parks and myself.

Q. What did Mr. Cowen say about it?—A. Mr. Cowen said—the Evans affair had happened the night previous, and he said that if any one of those niggers ever touched or insulted his wife, one of his children, or one of his lady friends, that he would take his Winchester and go down and kill them.

Q. He said that?—A. Yes, sir.

Q. Right there on your porch that night?—A. Yes, sir.

Q. Did he say anything about making preparations to kill them?—A. No, sir; none whatever.

Q. Didn't he say anything about having bought some ammunition that afternoon?—A. No, sir; not that night.

Q. He did not?—A. No, sir.

Q. Didn't he tell you—I ask you to think about it, you need not answer until to-morrow.—A. I don't need to think it over. He told me the next day, but that night he did not tell me he had made any preparation at all.

Q. He did not tell you that evening before the shooting that he was afraid there was going to be trouble on account of this Evans matter?—A. Oh, that was general talk all over town, sir.

Q. All over town, they were talking about the Evans matter, were they?—A. That is what I understood.

Q. There was a great deal of indignation on account of it?—A. Most naturally, sir.

Q. Yes; of course, it would be very natural; but they were talking it over freely, all over town, were they?—A. I was told so. I did not hear it; I was told so, but I never left my home.

Q. You heard this from everybody you talked with, didn't you?—A. No; I heard it, general conversation in the house.

Q. You heard it from Mr. Cowen?—A. Yes, sir.

Q. Was he pretty violent in his talk?—A. No, sir; that is all he said.

Q. He only said he would kill them?—A. Yes, sir; and any other man would say the same thing, you or any other man.

Q. Oh, I expect so.—A. I know it.

Q. Now, did he say anything at all—you may think about it until morning—about having purchased a lot of ammunition?

Senator WARNER. Why should she think about it until morning when the lady has already answered the question?

By Senator FORAKER:

Q. I ask the question again.—A. There is no necessity for my thinking about it, because I remember very distinctly he did not say that night that he had bought any ammunition or that he had made any preparation; but the next day he told it in my courtyard or some part of the house.

Q. That is, the next day he did tell you that he had gone out the day previous and bought some shells, but it was the day after he made that assertion. That will do until to-morrow morning. I will have to ask you to come back again to-morrow morning.

(At 4 o'clock and 30 minutes p. m. the committee adjourned until Friday, June 7, 1907, at 10 o'clock and 30 minutes a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Friday, June 7, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Scott (acting chairman), Foraker, Lodge, Bulkeley, Warner, Pettus, and Overman.

TESTIMONY OF MRS. KATIE EMMA LEAHY—Continued.

By Senator FORAKER:

Q. Just a word or two. I asked you last evening whether you remembered about Mr. Cowen telling you the night of the 13th, before the firing, that he had purchased some ammunition that day?—A. No, sir.

Q. I understood you to say that you did not, but that he told you that the following day.—A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir.

Q. Now, who were these two policemen whom you shut up in your house?—A. I do not know, sir.

Q. Do you not know their names?—A. No, sir.

Q. Did you ever see them around about your part of the town?—A. Yes, sir; I know all the policemen by their faces, but I do not know who they are. I do not know their names.

Q. You do not know their names?—A. No, sir.

Q. Were these two policemen on duty there that night?—A. I do not think so. I think they were just walking around to see where the fire was.

Q. Where were they when you first saw them?—A. They turned the corner of Elizabeth street and were coming down towards the alley.

Q. On Fourteenth street?—A. Yes, sir.

Q. And that was before the soldiers had come up as far in the alley as Fourteenth street?—A. Yes, sir.

Q. Now, that orange tree that stands between your Annex and the Cowen house is higher, is it not, than the window in your second story? I will ask you to look at this photograph.

Senator WARNER. I submit that she can tell better without the photograph.

Senator FORAKER. I want to identify it by the photograph.

By Senator FORAKER:

Q. How about that, Mrs. Leahy?—A. I do not know, sir.

Q. What is it?—A. I could not tell you whether it is as high as the window or not.

Q. You could not tell?—A. No, sir.

Q. There is the photograph, which is numbered "13," an exhibit attached to the Purdy testimony. It says: "Taken from room in which Mrs. Leahy stood, showing gallery of barracks." According to that, that is the tree between the two houses to which I point, is it not?—A. Yes, sir.

Q. According to that the top of it is up higher than—A. No, sir.

Q. I say that according to that picture the top of the tree is as high as the roof of the barracks.—A. It may look like that in the picture, but it is not so by looking out of the window.

Q. How is it?—A. I could see the whole top of the barracks distinctly.

Q. You stated yesterday, as I understood you, that you saw the flashes of the guns from the upper gallery as you looked through the leaves.—A. No; not through the leaves. I looked over the tree. I could see the gallery very distinctly.

Q. You looked over?—A. Yes, sir; I saw the flashes on the bottom probably through the leaves, but I saw them very clearly and distinctly.

Q. About how far away from you was that?—A. I believe it is about 280 or 300 feet.

Q. And from your window in your second story you looked out over the top of this tree and saw these men walking on the upper gallery of B barracks at the time when that firing was going on?—A. Yes, sir.

Q. While we are looking for that passage in your testimony of yesterday, I want to ask you again about these policemen. How long did you keep them in that room?—A. Oh, about an hour and a half—two hours.

Q. An hour and a half. Then it was until long after the firing was all over?—A. Oh, sure.

Q. Yes. And did they retain their arms in their possession while they were in there?—A. Certainly.

Q. You did not take them away from them?—A. No, sir.

Q. There is some testimony on that point, as to whether you relieved them of their arms or not; and you did not?—A. I did not, sir.

Senator WARNER. I know of none.

Senator FORAKER. Mr. Elkins testified on that general point.

Senator SCOTT. He testified, if you remember, that she said they could go, but to keep the guns to defend themselves.

The WITNESS. Now, please, one moment. Mr. Elkins has made a mistake. Mr. Elkins never knew that I had those policemen in my bathroom until after the shooting, if I am correct, which I am sure I

am. I left the window, went downstairs, put them in there and told them not to make any noise, and to stay in there, it didn't make any difference what happened, for they would be killed if they left that room. Then I forgot entirely that I had done so until, long after the shooting, Judge Parks came back from uptown, where I sent him to hunt for Louis Cowen, and he told me there were two policemen killed—at least missing, and they expected they were killed, because they could not be found anywhere in the city or in their homes. Then I remembered that I had put them in the bathroom.

By Senator FORAKER:

Q. And then you liberated them?—A. No, sir. Judge Parks and my sister did so.

Q. They went and opened the door and let them out?—A. Yes, sir.

Q. Was the door locked?—A. No, sir; just closed.

Q. They could have come out at any time?—A. Yes, sir; but I had instructed them not to do so.

Q. You had instructed them?—A. Yes, sir.

Q. You had no official position?—A. Oh, certainly not.

Q. You simply assumed, there, to give them instructions, and they obeyed, as I understand?—A. Sure.

By Senator OVERMAN:

Q. Did you tell them that was a matter of caution, to save their lives?—A. Yes, sir; I did.

By Senator FORAKER:

Q. Now, why did you think the policemen needed special protection?—A. I didn't think that; never thought of them being policemen, sir, at the time.

Q. You did not put anybody else in a bathroom?—A. I didn't see anybody else.

Q. You didn't see anybody else at all?—A. Excepting those soldiers.

Q. If anybody else had come around, would you have put them in some room for safety, also?—A. Probably so.

Q. What is it?—A. I might have done so.

Q. Why did you not put Mr. Elkins in some room?—A. Mr. Elkins was in his room, sir.

Q. He was in his room, upstairs?—A. Yes, sir.

Q. And Judge Parks?—A. He was in his room.

By Senator OVERMAN:

Q. It was time for people to get out of the way, wasn't it?—A. What is it, sir?

Q. I say it was time for people to be getting out of the way and to be hid, was it not?—A. If you had walked on that front street, you would have thought so, sir.

By Senator FORAKER:

Q. Whatever the reason may have been, you did put them in, but you did not deprive them of their arms?—A. No, sir.

Q. Did you see any other policemen about there that night?—A. No, sir.

Q. What did these policemen do when you let them out of the bathroom; did they remain there or go away?—A. Judge Parks took them off, and I don't know where they went.

Q. Judge Parks took them away?—A. Yes, sir.

Q. And Judge Parks is dead now?—A. Yes, sir.

Q. He died at your house?—A. Yes, sir.

Q. About when?—A. Two or three weeks after; I don't remember, sir.

Q. He fell out of the window, did he not?—A. Yes, sir.

Q. Out of the window of that same middle room of the three upstairs?—A. Yes, sir.

Q. He fell out onto the sidewalk on Fourteenth street?—A. Yes, sir.

Q. Was he killed instantly?—A. Yes, sir; I think so.

Q. What is it?—A. We found him dead. He was dead when I saw him, so that I suppose he was killed instantly.

Q. He was found in the morning, about what time?—A. No, sir; it must have been—I don't know, but it was about 3 o'clock, I think.

Q. About 3 o'clock in the morning?—A. Yes, sir.

Q. Do you know how he came to fall out of the window and get killed?—A. No, sir.

Q. You do not know anything about it?—A. No, sir.

Q. May I ask you had you retired when this firing commenced this night?—A. No, sir.

Q. You had just gone to your room with a view to retiring?—A. I had just undressed and wound my clock and was just about to go into bed when I heard this shot.

Q. Did you stop to redress yourself before you went out?—A. No, sir; I did not.

Q. You just went as you were?—A. Yes, sir.

Q. Now, I read from your testimony as given yesterday, as reported at page 2902 of our hearings, as follows:

Q. We see in the picture a tree. It did not obstruct your view at all?—A. No, sir.

Q. You saw right through that tree?—A. I saw through the leaves and over that.

Q. You saw through the leaves?—A. I saw through that, and saw them on the gallery; saw men moving and saw the shooting.

Is that statement of yours, made yesterday, as I have just now read it, correct or not?—A. I saw clearly the gallery, and on both sides. That tree did not obstruct my view from my window whatsoever.

Q. You could see?—A. Or if the tree did, I could see, positively, through it, and I saw over it. That tree did not obstruct the gallery of the barracks, none whatever.

Q. That is to say, if the tree was so high you could not see over it, you saw to the right or left or saw through it?—A. Saw right in front of it [indicating].

Q. That is to say, you had no trouble in seeing what you have reported?—A. None whatever.

Q. And you saw distinctly the flashes of the guns from the barracks to the number you have indicated, and you saw men moving backwards and forwards carrying lanterns?—A. Yes, sir.

Q. More than one lantern?—A. Yes, sir.

Q. How many lanterns?—A. I saw them two or three times, at the very least.

Q. Was the building lighted up?—A. No, sir.

Q. It was all dark?—A. Nothing but these lanterns were lighted that I saw, sir.

Q. Did you hear them forming their companies?—A. I heard them calling the roll.

Q. Where were they when they were calling the roll?—A. I do not know, sir; I just heard it.

Q. You heard them calling it?—A. Yes, sir.

Q. The roll was called at different points, according to the testimony given here. Can you tell any point at which you heard them calling the roll?—A. No, sir; I just heard the roll called.

Q. Did you hear the bugle sound?—A. Yes, sir.

Q. About when did you hear the sound of the bugle first?—A. Just before I saw—a few minutes before I saw—those soldiers returning back to the post.

Q. Just a few minutes before you saw the soldiers returning to the post?—A. Yes, sir.

Q. Did you not hear the bugle sound when the men were firing, or before they were firing at the Cowen house?—A. Sir?

Q. Did you not hear the bugle sound before the firing which you have described at the Cowen house?—A. I do not remember, sir.

Q. You might have heard it before that?—A. I might, but I do not remember it.

Q. You do not remember about that?—A. No, sir.

Q. But you did hear it just before you heard the men returning?—A. Before I saw them returning, sir.

Q. Before you saw the men returning. Senator Scott wants me to ask you what kind of a night that was.—A. It was what I would call a dark, starlight night.

Q. What is the answer, now?—A. I said that it would be what I would call a dark, starlight night.

Senator FORAKER. That is all I care to ask.

By Senator OVERMAN:

Q. Did you go over to the Cowen house that night?—A. Yes, sir; I did.

Q. After the shooting?—A. While the shooting was continuing up the alley between my house and farther up.

Q. Why did you go over there?—A. Because Mrs. Cowen jumped to her window and called out to me and said, "Oh, Katie, my God, they have shot into my house, and we are frightened to death." And I said, "Where is Louis?" and she said, "He is downtown;" and I said, "Do you want us to come over?" and she said yes, and I went across there and Judge Parks and Mr. Elkins hollered and said that they would go over and get them if I would wait, but by the time they got down there I had the Cowen family over into my house.

Q. How many of them were there?—A. There were the five children and the servant girl and Mrs. Cowen.

Q. You took them over into your house, did you?—A. Yes, sir.

By Senator FORAKER:

Q. You asked her where Willie was, or Louis?—A. Louis.

Q. That was Mr. Cowen, the head of the family?—A. Yes, sir.

Q. What time did you see him that night?—A. He didn't come back home until I sent Judge Parks after him. After Judge Parks took the policemen out, I sent him to go and find Louis, and I told him not to come back without Louis. Mrs. Cowen was in hysterics, and I haven't any sympathy with a woman in hysterics.

Q. You sent Judge Parks after Louis Cowen, and that was after you let the policemen out, and you kept the policemen shut up for an hour and a half or two hours?—A. Yes, sir.

Q. So that it must have been as late as what, half past 1 or 2 o'clock, before Mr. Cowen came home?—A. Yes, sir; fully.

Q. Fully 2 o'clock. In what condition was he? Had he been drinking or not?—A. I would hate to say, sir, because he talked about suing the Government for \$50,000 for damages to his house and family, and I got tired of listening to it, and I went out to my room.

Q. You did what?—A. I got tired of listening to him and went out to my room.

Q. That night; he talked to you that night about suing the Government for \$50,000?—A. He didn't do it to me, but to the people who were in the room.

Q. In what condition was he, intoxicated or not?—A. I would hate to say, sir; for I don't remember. I know he came back with a bottle of whisky and a bottle of beer and a sandwich. I met him at my front gate.

Q. Did he seem to have been drinking?—A. Not more than usual.

Q. Not more than usual? There was nothing unusual in the condition he was in that night?—A. I have never seen Mr. Cowen that I would call intoxicated.

Q. If he was not intoxicated, there is no harm in saying that he was not intoxicated, is there?—A. No, sir. I don't know that he was intoxicated. I would hate to say.

Q. I am asking you for information. He had this whisky and beer and sandwich?

Senator WARNER. The whisky was outside of him.

Q. (Continuing.) But the whisky was in a bottle?—A. Yes, sir.

Q. Had he apparently been drinking any? I will ask you that question again.—A. Yes, sir; I believe he had. He looked like it.

Q. He seemed very much excited, did he not?—A. Yes, sir.

Q. And talked in the way you have indicated?—A. Yes, sir.

Q. You thought it was rather extravagant talk under the circumstances, did you not?—A. I did, sir; at a moment like that.

Q. What?—A. I did think so, at a moment like that, after his wife and little children had been in the danger they had been in, because I realized it, if he didn't.

Q. He said that long afterwards, when he came back, after staying away from them?—A. Yes, sir; I know nothing would have kept me away.

Q. He was not in any hurry to get home after the firing was over?—A. I sent Judge Parks after him.

Q. Did you send Judge Parks after him twice?—A. I did, sir.

Q. Judge Parks went, and was gone some time, and failed to find him?—A. Yes, sir; he failed to find him and came back and told me these policemen were missing, and then I remembered having the policemen locked up, and then he let the policemen out, and then I

told him to go and look for Louis Cowen again, and not to come back without Louis, and he brought Louis back, and when Mr. Cowen came to my gate I said, "Louis, where have you been? Your house has been shot to pieces, and all of your little children and your wife are over here in my house. Where were you to leave another woman protect her?" He said, "I couldn't get back home, because I hadn't a six-shooter, and the bullets were flying all up the street." That was his language.

Q. There were no bullets after the firing was over?—A. No, sir.

Q. And you experienced no fear in going around to look after matters at that time?—A. I do not know what fear is.

Q. You do not know what fear is?—A. I know a whole lot of the balance of the people hid under their beds.

Q. Can you tell us who else hid under their beds?—A. Oh, no; I wouldn't take the time to remember that.

Q. Well, we only want to get at the facts. Did any of them who have been testifying here hide under their beds?—A. You must ask them that and not me. I can tell you what I heard and saw, but I can not tell you what other people heard and saw. Remember I am here to tell the truth. Remember that was only hearsay.

Q. Yes; we would like to have you tell what you heard. We have been having hearsay here; a great deal of it.—A. If I told you what I heard on the subject of the nigger raid, it would take me a year to do so, and you would all be tired and disgusted.

Q. To talk about what the people of Brownsville did, and how they acted, getting under beds, and so forth, as well as other kinds of talk?—A. Yes, sir; exactly.

Q. To get back to Mr. Cowen, did he go over to his house after Judge Parks brought him home?—A. Yes, sir.

Q. Did he and Judge Parks go over there?—A. Yes, sir; I went with them. His wife also went.

Q. To hunt him?—A. No, sir; I had brought them over to my house.

Q. Yes.—A. He came to my house first. I met them at the gate, and then we went over to his house—his wife and Judge Parks and myself. I do not know whether any of the balance of the people went or not.

Q. How long did you remain over there?—A. I suppose about ten minutes, probably. We looked through the house.

Q. And then he returned with you to your house?—A. Yes, sir.

Q. And did he and the whole family remain in your house that whole night?—A. Yes, sir.

Q. Where did he remain? Where was he stationed during the night?—A. He was stationed right in my courtyard, right in front of my door.

Q. Was he armed?—A. Oh, yes; he brought his gun over when we came back from his house.

Q. And that was a Winchester?—A. I believe it was. I have been told since; I didn't know what it was that night.

Q. But he did bring his gun, and he took position in front of your door and sat there until morning, did he?—A. Yes, sir.

Q. On guard?—A. I suppose he must have been on guard when he sat there with a gun in his hand all night. I don't know what else it could be.

Q. What I want to know is whether you put him on guard?—A. Oh, Senator, don't ask such ridiculous questions, please. I put him on guard! Why should I want that man, after I had sent for him and brought him back where I was taking care of his wife and children, to guard me?

Q. That is what I wanted to know, particularly after you told us just a moment ago that you were not afraid of anything at all; I wondered why you should suddenly want a guard. Well, you did not put him on guard. How did he happen to take station right in front of your door and stay there until morning?—A. Because he was in the courtyard, and my room is almost opposite my side gate, and he seemed to think that if anybody was to come in, that would be the only way they could get in.

Q. That was back in the rear of the hotel, was it not, that is the rear from Fourteenth street?—A. Oh, yes.

Q. And the rear also from Elizabeth street?—A. Yes, sir.

Q. He was back in the L?—A. Yes, sir; but this is a little alley-way, I should call it, just a sort of little garden, and the gallery at the side of the house, and he could look almost right over there and see anybody come in at the side.

Q. But that was about the best-protected and safest place he could get, was it not?—A. You must ask him that.

Q. No; I am asking you. He was practically surrounded by the buildings, was he not?—A. Yes, sir.

Q. And the woodshed was next to the alley?—A. Yes, sir.

Q. And then you were at hand if any danger should arise?—A. I don't think that is just, exactly.

Q. What is that?—A. I do not think that is just.

Q. Why not?—A. Because it is not.

Q. Well, you were pretty much managing everybody and everything in that neighborhood that night, were you not?—A. Yes, sir.

Q. And you were not afraid of anything at all?—A. Never known what fear was in my life.

Q. Not even afraid of lightning?—A. Yes, sir; but that is what God creates, not what man does. I am afraid of God, sir; that is why I am here to tell the truth. Do not forget that, please.

Q. No; we will not forget that. So that you are afraid of the power of the Almighty?—A. Yes, sir.

Q. When He is moved to wrath, or when He sets the laws of nature into dangerous operation. Well, we will not discuss that. I only wanted to get the facts about it. Now, did you see Mr. Cowen the next day?—A. Yes, sir.

Q. What was he doing the next day?—A. He came in and talked, like the balance of the people. I assure you I didn't do anything but move around the house all day long.

Q. Move around your house?—A. Yes, sir.

Q. And he was in, talking like the balance of the people. How were they all talking?—A. How were they all talking?

Q. Yes.—A. I don't believe I heard Mr. Cowen make very many

remarks at all, the next day, excepting that he had been warned that there was going to be some shooting done after pay day.

Q. What?—A. He said that he had been warned that there was going to be some shooting done after pay day.

Q. That is, he was telling that the next day?—A. Yes, sir.

Q. He was telling that somebody had warned him. Now, who was it he said had warned him?—A. He didn't say the next day who warned him, and I never did hear who had warned him.

Q. Have you never heard until this time?—A. I don't believe I ever heard Mr. Cowen say so, but I know who did warn Mr. Cowen because a man told me so.

Q. Who was that?—A. Bill Henry.

By Senator WARNER:

Q. Called William Henry?—A. I suppose so, because we call him Bill Henry.

Q. He is a colored man?—A. Yes, sir.

By Senator FORAKER:

Q. He is a colored man and lives in Brownsville?—A. Yes, sir.

Q. He testified before the grand jury?—A. I do not know.

Q. Well, we have his testimony. Did you ever hear of anybody warning Mr. Cowen or anybody else that there was going to be a shooting?—A. No, sir.

Q. You did not hear of any warnings at any time?—A. No, sir.

Q. You had not had any trouble with any of the soldiers?—A. Oh no; never had.

Q. Or any of the officers?—A. No, sir.

Q. Some of the officers boarded at your house?—A. Most all of them.

Q. All of them?—A. Not all of them, but most all of them. All of the single officers in the post, I think.

Q. All of them that boarded out in town boarded with you?—A. I believe all of them excepting one.

Q. Who was that?—A. I do not know, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Mrs. Leahy, you have heard since that it was this man Bill Henry, or William Henry, who warned Mr. Cowen that after pay-day there would be shooting?—A. Bill Henry told me so.

Q. He told you so?—A. Yes, sir.

Q. When was that?—A. After I went home from San Antonio he told me.

Q. Have you heard it said there as a matter of hearsay that any other parties were warned?—A. Yes, sir; Bill Henry told me that a man by the name of Johnson had gone into Allison's saloon and had warned Allison and a man by the name of Taylor not to leave his family and come home that night, because they were going to shoot up the town. I also heard from Mr. Billingsley that his servant man had told him so, and he had warned citizens, or some of the citizens, of the fact that evening; and they laughed at him.

Q. Mrs. Leahy, is your mother alive?—A. Yes, sir.

Q. Does she live in Brownsville?—A. She is an invalid; yes, sir.

Q. What part of Brownsville does she live in?—A. Right opposite my old home, known as the Leahy house; on some of my own lots—my property, sir.

Q. In the morning after the shooting did you go to your mother's house?—A. I went down, sir, between 5 and 6 o'clock—about 5.30.

Q. In going to your mother's house from your house which way did you go?—A. I went down the Cowen alley, and down the post fence to my house—my mother's.

Q. That is, you mean you went down what we call the garrison road between the post and the town?—A. Yes, sir.

Q. When you got to the garrison road you would go in what direction?—A. Down towards Jefferson street, right straight down the garrison wall.

Q. That is, away from the river?—A. Yes, sir.

Q. We have Elizabeth street and Washington street and Adams, and then comes Jefferson, does it not?—A. Yes, sir.

Q. When you went by the barracks this morning, did you see any of the soldiers? And if so, state what they were doing.—A. Yes, sir; I saw all along the garrison fence men posted, armed.

Q. Yes.—A. I also saw, I should presume—I am almost positive—five or six men sitting on the gallery upstairs cleaning guns.

Q. In which barracks was this, do you remember?—A. B barracks.

Q. B barracks. And what time in the morning was this?—A. 5.30. I was back to my own house after 6, to serve first breakfast.

Senator WARNER. That is all.

By Senator FORAKER:

Q. You saw five or six men on the back porch of one of these barracks buildings cleaning guns?—A. Yes, sir.

Q. Which one of the buildings?—A. B barracks.

Q. B barracks?—A. Yes, sir.

Q. Did you see anyone on either of the other barracks porches cleaning guns?—A. No, sir.

Q. You just saw five or six men?—A. Yes, sir.

Q. What were they doing?—A. They were polishing up the tops of the barrels and pulling rags through the barrels—some sticks, or something; I don't know what it was.

Q. This was 5.30 in the morning?—A. Yes, sir.

Q. Was this before sunrise or after?—A. After sunrise. It was daylight. I couldn't tell you whether the sun was up, but it was daylight already.

Q. I want to know whether it was as late as sunrise?—A. I don't know; I couldn't tell you. It was daylight, that is all I can tell you.

Q. You saw everything perfectly clearly?—A. As clear as I could look out of that window and see, now.

Q. As clear as it is now?—A. I don't suppose it was probably as clear as it is now, but I could see as clear as now.

Q. Did you see any officers out there?—A. I did not. I saw only one officer, and that was down by the gate.

Q. That is, this large gate [indicating on map]?—A. Yes, sir.

Q. Do you know who that officer was?—A. No, sir; I do not.

Q. I want you to locate him as nearly as you can. This is the gate and there is the Cowen alley—the mouth of it [indicating on map].

Where was he?—A. He was on that walk, just about where the pointer is.

Q. Inside of the reservation?—A. Oh, yes; he was inside.

Q. Inside of the reservation, somewhere near B barracks, which is next towards the river?—A. Yes, sir.

Q. You saw the officer there? What was he doing?—A. He did not seem to be doing anything, but just standing there.

Q. Well, did he have on his sword and a revolver?—A. I couldn't tell you, sir.

Q. Was he in full uniform?—A. No, sir; I am not positive, but it was either an olive drab or a khaki he had on; but I think, if I am not mistaken, it was an olive drab.

Q. Do you know Captain Macklin?—A. Yes, sir.

Q. Was it he?—A. No, sir; I am positive it was not Captain Macklin I saw that morning.

Q. You are positive it was not Captain Macklin?—A. Yes, sir; I knew Captain Macklin personally.

Q. You knew Captain Lyon?—A. I have since, but I did not know him at that time.

Q. Did you know Captain Macklin at that time?—A. Yes, sir; he used to call at my house.

Q. Captain Lyon you did not know then?—A. No, sir.

Q. But you knew him since?—A. Yes, sir.

Q. You know how the officer looked?—A. No, sir; I was in too much of a hurry to pay any attention. I was going to see how my mother was.

Q. Did you look carefully enough to see it was an officer?—A. Yes, sir.

Q. But you can not tell us whether it was Captain Lyon?—A. No, sir.

Q. Did you know Captain Lawrason?—A. I did, sir. I saw him there that morning.

Q. At this same time?—A. No, sir; I think it was after that I saw Lieutenant Lawrason. He was near the little gate. That was between 7 and 8 o'clock.

Q. You knew him well?—A. Yes, sir; I knew him well.

Q. It was not Lieutenant Lawrason, then, whom you saw at that time?—A. No, sir.

Q. Did you know Lieutenant Grier?—A. Yes, sir.

Q. Did you know him at that time?—A. No, sir.

Q. Did he not board with you?—A. Afterwards.

Q. Afterwards?—A. Yes, sir; he boarded there afterwards.

Q. Did any of the officers come out and board with you after this shooting affray?—A. Lieutenant Grier.

Q. Lieutenant Grier did?—A. Yes, sir.

Q. He took his meals in your house?—A. Yes, sir; he and his wife both, for a month.

Q. For one month after this shooting?—A. Yes, sir.

Q. How long did he remain and on what account did he remain there?—A. As quartermaster, sir.

Q. He was quartermaster?—A. Yes, sir.

Q. He remained behind to transfer the baggage?—A. Yes, sir.

Q. And quartermaster's stores?—A. Yes, sir.

Q. And during all that time he boarded with you at your house?—

A. Yes, sir.

Q. He and his wife?—A. Yes, sir.

Q. You know him, then, very well?—A. Yes, sir.

Q. Was it he you saw?—A. No, sir; it was not.

Q. Let me see, was there any other officer who was there? You know Major Penrose, do you not?—A. Yes, sir; I have met Major Penrose since, but I do not know whether I would recognize him to-day if I saw him.

Q. Could it have been Major Penrose you saw there?—A. It must have been either Major Penrose or Captain Lyon.

Q. It must have been either Major Penrose or Captain Lyon that you saw there at 5.30 in the morning, and at the time you saw either Major Penrose or Captain Lyon you also saw five or six men on the rear of B barracks, upper gallery, cleaning their guns?—A. Yes, sir.

Senator FORAKER. That will do.

Senator WARNER. That is all, Mrs. Leahy.

(Witness excused.)

TESTIMONY OF LOUIS HAROLD COWEN.

(The witness was sworn by Senator Scott.)

By Senator WARNER:

Q. What is your name in full?—A. Louis Harold Cowen.

Q. What is your age?—A. Nineteen; I was 19 this March—the 10th of March.

Q. You are the son of Louis R. Cowen?—A. Yes, sir; I am the son of Louis R. Cowen.

Q. How long have you lived in Brownsville?—A. I have lived in Brownsville pretty near all my life, although I have been with my grandparents also.

Q. Where was that?—A. In San Antonio and in different parts of Mexico with them.

Q. You know the time the colored soldiers came to Brownsville?—A. I know the time. I was not there, though. I was in San Antonio when they arrived in Brownsville. They arrived in Brownsville before I did.

Q. You were sick there with typhoid fever?—A. Yes, sir; I was sick in San Antonio.

Q. About how long before the shooting up of Brownsville was it that you returned?—A. It was thirteen days. I got there on August 1.

Q. Your mother was with you over there a part of the time?—A. Yes, sir.

Q. And your father came over there to see you?—A. Yes, sir; he was in San Antonio also.

Q. You were in Brownsville the night of the shooting?—A. Yes, sir; I was in Brownsville.

Q. There was a party at your house, a children's party?—A. Yes, sir.

Q. Without going into details, had you gone to bed when the shooting commenced?—A. I was partly undressed when I heard it. That is, before the shooting I had commenced to go to bed. Just

before that I thought I would go out into the yard, and just look around, and I happened to close the alley gate. I guess that was a few minutes before the shooting began. I had just gotten into the dining room when the shooting began, and I heard one or two shots. I think it was between four, five, or six, I didn't exactly count them. That was not a volley. I thought it was a fire, at first, so that I wanted to go out and see, but my mother was very nervous and did not want me to, and as my father was not at home at that time I thought I would stay with them. I heard a volley after that, and I knew that it was something more than a fire.

Q. Where was that firing? Was it down in the direction of the barracks?—A. It seemed to me like it was in the post; yes, sir.

Q. It seemed so to you?—A. Yes, sir.

Q. You had not entirely recovered from your sickness, had you, at this time?—A. I had been up. I had already recovered of it, but of course I was not strong. It takes some time to get strong after being in bed the length of time I was.

Q. What time did your father leave home that night?—A. I did not pay very strict attention to that. I think it was almost 11 o'clock.

Q. What had he been doing in the evening, there?—A. I saw him playing with the children that night. He was amusing them all; they were all playing together, and he was showing them games, there.

Q. When you heard the shooting that you thought was in the barracks, afterwards which way did the shooting come?—A. It seemed to come up that alley. I don't think they lost any time in coming up, either. They were advancing very rapidly—the shots were.

Q. About how many, do you know, or were you in any condition to count the number of shots?—A. I didn't know what the trouble was. I didn't think of counting the shots or anything else. I thought more of finding out what the trouble was.

Q. Your house was fired into. How many shots were fired into your house?—A. I think it was something like eight or ten; something like that.

Q. Through how many rooms did the balls go?—A. I think it was five rooms.

Q. Through five rooms?—A. Yes, sir.

Q. About how high from the floor did those bullets go?—A. At a height of 4 or 5 feet.

Q. During the shooting, or just about as it closed, where did you and your mother and the children go?—A. We went over to Mrs. Leahy's, to the Leahy house.

Q. Mrs. Leahy came over for you, did she?—A. Yes, sir; she came across the street.

Q. And how many of you children were at home then?—A. There was my mother and four sisters and my little brother besides myself and the servant.

Q. You are the oldest?—A. Yes, sir.

Q. You have a baby sister?—A. Yes, sir; she was not born at the time.

Q. How old is she?—A. If she is not three months, she is pretty near it; something like that.

Q. How old?—A. Almost three months old. I do not know exactly how old she is.

Q. You did not see any of the parties who did the shooting?—A. No, sir; I did not see any. I thought it best to keep out of the windows.

Q. And your mother got the children under the bed, and every way she could, did she, to protect them?—A. Yes, sir; they all got under the bed, except my mother and myself stayed out most of the time.

Q. Your father had not gotten home before you went across to the Leahy Hotel?—A. No, sir; he had not gotten home yet.

By Senator FORAKER:

Q. Had you retired yet or not when the firing commenced?—A. No, sir; I had not gone to bed.

Q. You had gone to your room?—A. I went into my room and started to undress, and I walked out in the yard and was walking around there for one or two minutes, and I went to close the alley gate.

Q. I can not hear you, Mr. Cowen. If you will just answer the questions I ask you, we will get along. I want to know what room you occupied, or were about to retire in?—A. I was about to retire in my own room.

Q. What room is that?—A. That is the one near the alley, the southeast room of the house.

Q. The southeast?—A. More east.

Q. That would be on the end of the house next to Elizabeth street?—A. No, sir; it would not be Elizabeth street.

Q. Oh, it would be on the end of the house, then, next to the alley?—A. The south part of the house; the southern part of the house next to the alley.

Q. That is to say, you were in one of the rear rooms and that one next to the alley?—A. Yes, sir; the end room facing the alley.

Q. Where did the bed stand in that room?—A. The bed stood right close to the window.

Q. Right close to the window?—A. There were two windows—one on the south and one towards the alley.

Q. One window in your room looked out towards the fort?—A. Yes, sir.

Q. The figure to which I point is intended to represent your house.—A. Yes, sir.

Q. I point now to the alley at the rear of the house. That is the room you occupied?—A. Yes, sir.

Q. How large is that?—A. I never measured the room.

Q. It looks like a square room.—A. It is almost square.

Q. It has one window looking out on the alley?—A. One facing the alley and one on the yard.

Q. Your bed stood where?—A. Right here, between the windows. It faced this window here, but did not cover that one.

Q. Which one did it not cover?—A. The one facing the alley.

Q. The one facing the alley and not covered by the bed was open?—A. It was open; yes, sir.

Q. And not covered by the bed?—A. The bed did not cover it at all.

Q. And it did not stand in front of it?—A. No, sir; not at all.

Q. Was the window up that night?—A. They were all open, excepting the blinds; the blinds were open.

Q. They were wooden shutters, were they?—A. Yes, sir.

Q. You had just gone into your room when you heard the firing commence?—A. I had been in there; I had just come from the other side, from the dining room.

Q. You had just come from the dining room?—A. Yes, sir.

Q. There was a light in the dining room, was there not?—A. Yes, sir.

Q. Was there any light in your bedroom?—A. No, sir; but the light from the dining room makes it almost the same as if it was in my own room.

Q. I only want to get the facts. There was a door between the dining room and your bedroom through which the lights which were in the dining room would shine?—A. Yes, sir.

Q. Had you closed your door yet?—A. I never close it.

Q. You never do close it?—A. No, sir.

Q. Was anybody else up about the house?—A. Yes, sir; all the children were up, I think.

Q. The children were up, and your mother was up, was she not?—A. Yes, sir. I do not know which ones of the children were up. I guess one or two of them might have gone to bed.

Q. You heard the firing, and what did you hear; how many shots?—A. I did not count them. At first I heard about four or five shots.

Q. Four or five shots? What kind of shots did they seem to be—from what kind of guns?—A. What I judged them, they seemed to be a rifle, a heavy rifle, a very strong rifle.

Q. They seemed to be high-power rifles?—A. Yes, sir.

Q. You heard four or five shots? Then what did you do when you heard those shots?—A. I wanted to go out and see what it was.

Q. Did you go out?—A. I went and looked out of the window and the door.

Q. You went back into the dining room?—A. Yes, sir.

Q. And looked out of the windows and the door?—A. Yes, sir.

Q. Are there two windows in the dining room?—A. There is one window and the door.

Q. There is one window and the door. They look out to the rear towards the fort?—A. Yes, sir.

Q. And you looked out of the window?—A. Yes, sir.

Q. And was the light still burning in the dining room?—A. Yes, sir.

Q. And how long was it, now, until they got up to where your house was, after that?—A. About a minute and a half.

Q. About a minute and a half. You said it seemed like they lost no time in getting there; they got there very quickly?—A. From the time I heard the shooting in the post, I think a minute and a half would be pretty fast, to run and jump that wall, and run up there. and do what they did.

Q. From the time you heard the first shots, you think it was about a minute and a half until they commenced firing into your house?—A. Yes, sir.

Q. Where were you when they commenced firing into your house?—A. I did not know they were firing into the house; I could not see them; but I walked through into the hall.

Q. You walked through into the hall?—A. I walked in towards Elizabeth street.

Q. Towards Elizabeth street?—A. Yes, sir.

Q. And where was this firing at that time?—A. At that time it seemed to be in the alley, right close to my house.

Q. You knew that shots were striking the house?—A. It is pretty hard to say when the shot strikes it. I didn't have any idea of what was going on.

Q. You did not have any idea?—A. No, sir.

Q. You did not see anybody at all?—A. No, sir.

(Witness excused.)

TESTIMONY OF CHARLES N. LUNKENHEIMER.

(The witness was sworn by Senator Scott:)

By Senator WARNER:

Q. What is your age?—A. Forty-six.

Q. What is your business?—A. Train conductor; railroad conductor.

Q. On what road?—A. The St. Louis, Brownsville and Mexico Railroad, between Bay City and Brownsville.

Q. Where is your home?—A. Brownsville.

Q. That is your headquarters?—A. No, sir; our headquarters are Kingsville, but my lay over is there; it is my headquarters, virtually.

Q. How long have you lived in Texas?—A. Nine years.

Q. Where did you live prior to that time?—A. Houston; Lufkin.

Q. Before you went to Texas where did you live?—A. In Pennsylvania.

Q. Are you a native of Pennsylvania?—A. Yes, sir.

Q. How long have you been engaged in railroading?—A. Twenty-seven years.

Q. Do you remember the time that the Twenty-fifth Infantry, colored troops, came to Brownsville?—A. I do.

Q. Were you conductor on the train?—A. Yes, sir.

Q. On what part of the route were you conductor in bringing them to Brownsville?—A. From the delivery from the S. A. and P. road.

Q. Where is that?—A. At Sinton.

Q. What distance is that from Brownsville?—A. One hundred and sixty-two miles.

Q. And they were on your train from that until the arrival at Brownsville?—A. Yes, sir.

Q. I will get you to state, Mr. Lunkenheimer, if you heard, or had with any members of those companies, any conversation, or did they speak anything, concerning Brownsville, the character of the town, the people, and so forth.—A. On leaving Sinton it was just about good daybreak. I did not make the run of my train then. The Major, he was asleep.

Q. Major Penrose?—A. Yes, sir; Major Penrose, he was asleep, and I didn't make the run of my train until after I left Robbston.

Q. By making the run of your train you mean taking up your tickets?—A. Yes, sir. It was a crowded train and there was only one party holding the tickets, outside of the family tickets, and I made that run between Robbston and Kingsville, that is the branch that goes to Corpus Christi. Now, I didn't get the family tickets until after I left Kingsville. After I left Kingsville I got on the rear car, and I took the family tickets. Between there and along about Catherine, I think it was, that is a 52-mile run. After I got the family tickets I was going through the train.

Q. That is, the cars that had the colored troops?—A. Yes, sir; and in going through the train I was hailed by a couple of the boys in the seats—there were four sitting facing each other—and they says, "Say, Cap"—

Q. Were these colored troops?—A. Yes; I had nothing but colored troops. They said, "Say, Cap, what kind of a town is Brownsville?" I said, "It is a right good little town, but it is nothing but a Mexican town, though." They says, "Any colored there?" I said no, I didn't think there was a half a dozen families in the town. He says, "Christ, ain't there any saloons there?" I says, "Oh, yes; saloons galore." He says, "Any colored saloons, are there?" I says, "No; if there is I don't know it; but I have got some boys working for me that drinks there."

Q. That is, you meant colored railroad men?—A. Brakemen.

Q. Brakemen?—A. Yes, sir; brakemen. Then I believe the same party spoke again—no; it was the party next to him. He says, "Well, we don't care whether there is any of them or not. We will drink in any of these damn bars. We will do like we did in so and so," mentioning the place they were from.

Q. Do you remember the name of that place?—A. No, sir; that place, I do not. He says, "When we first went to so and so we couldn't get a damn thing in the place, but, by God, we were not there but two weeks when we showed them where to drink; gave them a couple of clips under the lip, and we could get any damn thing we wanted in town."

Q. That was the way he spoke?—A. Oh, yes. So, you know [witness indicating by grimace]. That is the way they spoke it. I went on. They stopped me and talked, and I spoke to them and then went on. On going out, a big ginger-cake darkey spoke to me—got me out on the platform.

By Senator FORAKER:

Q. What was that expression?—A. A big ginger-cake darkey.

Q. Ginger-cake darkey?—A. Yes, sir; between a yellow and a white, what we call a ginger-cake darkey; he came out on the platform, and he says, "Now, wasn't that nice?" He says, "Now, that is just the way with this regiment." He says, "We have got some of the nicest boys in this regiment that you can find anywhere, and then," he says, "we have got some of the toughest. Now," he says, "that is just the kind of people that does the dirt, and we all have to take the blame."

By Senator WARNER:

Q. Was this colored man who was doing this talking one of the soldiers?—A. One of the soldiers; oh, yes. We had nothing but soldiers on the train; nothing but soldiers.

Q. Did you have any talk in either of the other cars?—A. Oh, yes, sir. I went farther, and I don't know whether it was the next car or the next car in front of that, but it was towards the head end—I was going towards the head end—what we call the head end is the engine—and I was stopped again and asked the same question, and I told him, "Yes; nothing but a Mexican town." "Any colored there?" "No; no colored there that I know of. I don't think there is half a dozen families in the town." He says, "Holy Christ!"

(The witness here used a foul expression.)

By Senator WARNER:

Q. Go ahead.—A. I told them they could do like my boys did, they could get them Mexican girls. He says, "No; I am tired of Mexicans, I have had lots of Mexican in the Philippines." Then the man next to him said, "Any white folks there?" I says, "Yes; lots of white folks there." "Well, by God, they are good enough for me," he says. Then I didn't say no more.

Q. This was conversation directly with you by members of that regiment?—A. Yes, sir.

Q. You were not in Brownsville the night of the shooting?—A. No, sir; the following.

Senator WARNER. Take the witness.

Senator FORAKER. I have no questions to ask this witness. Now, I believe this is the last witness you have?

Senator WARNER. Yes. It is my understanding that we are now to adjourn until Monday.

(At 11.45 o'clock a. m. the committee adjourned until Monday, June 10, 1907, at 10.30 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Monday, June 10, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Warner, Pettus, Taliaferro, and Overman.

Senator WARNER. I would like to put in the record at this point the testimony of one witness who was subpoenaed, but who has not gotten here, Mr. Odin. I am going to offer in evidence his testimony as taken by what is called the Purdy investigation, as found at pages 75 to 83 of Senate Document 155. He was one of the eye-witnesses there.

(The testimony referred to is as follows:)

Mr. HALE ODIN was first duly sworn by Mr. Purdy, and, upon being afterwards examined by him, testified as follows:

Q. Mr. Odin, what is your business?—A. Land and immigration.

Q. And how long have you been in that business?—A. Thirty-one years.

Q. What is your age?—A. Fifty-four.

Q. To what parts of the United States does your business call you?—A. To all parts.

Q. What place do you regard as your home?—A. San Antonio, Tex.

Q. How long have you lived here in this vicinity?—A. About twenty years.

Q. Where were you born?—A. In Detroit, Mich., but came to Dallas, Tex., with my parents while an infant. Graduated at Ann Arbor in the class of '72.

Q. You are a married man?—A. Yes, sir.

Q. What family have you?—A. A wife and five children.

Q. They live with you, do they?—A. Yes, sir; all except one.

Q. Were you in Brownsville, Tex., on the night of August 13, 1906?—A. Yes, sir.

Q. How long had you been there on that visit?—A. Six weeks.

Q. What members of your family accompanied you to Brownsville?—A. My wife and five children.

Q. I presume your business required you before that time to make frequent visits to Brownsville?—A. Yes, sir.

Q. Are you well acquainted with the people in Brownsville generally?—A. Yes, sir; very well.

Q. When you visited Brownsville on that occasion where did you stop?—A. At the Miller Hotel.

Q. Mr. Odin, I will show you this plat (Exhibit A), and ask you to locate your room in the Miller Hotel (which is No. 5 on the plat).—A. It was the room cornering on the alley and Thirteenth street, second floor.

Q. How large is that room?—A. About 20 feet square.

Q. What windows has it in it?—A. Two windows opening on the alley and two opening on Thirteenth street.

Q. Were you in that room with your wife on the 13th of August, 1906?—A. Yes, sir.

Q. And what other members of your family were with you?—A. My five children.

Q. Were they all in that room?—A. Yes, sir.

Q. Now, Mr. Odin, will you proceed to state, in your own words, just what you know about the shooting which occurred on that night in the city of Brownsville?—A. At 11.55 p. m. on the night of the 13th of August, 1906, I was sitting in the alley window of our room in the Miller Hotel, on the second floor, when I heard shots in the direction of the alley towards the fort. I noted the time; it was 5 minutes of 12, and I counted about 60 shots before they arrived at our windows. During this time I called my wife, and immediately after she and my little boy came to the window we heard persons upon the run coming towards us in the alley from the direction of Fort Brown, and when they passed our windows I counted 6 negro soldiers, 3 abreast in two columns, with one soldier running alongside, who stopped, crossed the alley opposite our windows, and one large negro soldier gave the order "Halt!" and said "There he goes; shoot!" and they fired a volley. Immediately one other negro soldier joined them from the same direction from which the other 7 had come. Then there were four more negro soldiers followed and joined the other eight, these four coming also from the direction of Fort Brown through the alley. Before the first soldiers arrived I noticed a large black dog running through the alley ahead of the soldiers, and supposed that it was a mad dog that they were chasing and shooting at.

Then a second order was given to fire and they fired again to the left or towards the river. Then one large negro soldier stepped back to the center of the alley, slightly in the rear of the other eleven, and raised his gun, and at this time another volley was fired. Immediately following this report the large negro with freckled face fired point-blank at us—Mrs. Odin and my son Lee and myself in the window. The ball from his rifle passed through the lower window sash and up into the ceiling in our room and the jacket of the bullet fell back on the floor. I picked it up the next morning and later forwarded it to the Secretary of War. We had a lamp in the room burning but turned partly down. From the flashes of their guns we could see the soldiers distinctly and I discerned their uniforms and dress and the color of their faces and could hear the voices as the command to fire and other remarks were made. Seven of these soldiers had on their usual dark brown uniforms; four were without jackets and one without a hat—was bareheaded. They all carried rifles and one carried a revolver—possibly two. The one that gave the order carried a revolver. When the two volleys were fired the large negro soldier, who gave the order, said "We got that white s— of a b—," and immediately after the shot that was fired into our window the other negro, who fired the shot at us, said "We got another white bastard." This was immediately following this shot directed at us when our little son fell back upon the floor as if shot, and we picked him up.

Q. What did you do then, Mr. Odin?—A. We heard a heavy fall as of a horse or some animal, and a groan which sounded like the groan of a dying horse. Then we heard a scream from a man, and immediately following this we heard somebody running northward up the street that faces the Miller Hotel, which is Elizabeth street. Then an order was given to "shoot this way," and a volley was fired to the right on Thirteenth street. Then they crossed Thirteenth street, nearly to the opposite side, and fired a volley into the Miller Hotel from Thirteenth street.

Q. Where were you and your wife standing at that time?—A. I was standing at the window looking out on Thirteenth street.

Q. You had left the window facing on the alley?—A. Yes, sir; had just stepped across the room.

Q. Who, if anyone, was with you at the window?—A. Mrs. Odin.

Q. And where did you see these men at that time—where were they standing?—A. They were nearly to the alley on Thirteenth street—on the north side of Thirteenth street.

Q. About how many men did you see there?—A. Twelve men.

Q. Did you at that time stop to count them, or was your estimation just made from the general appearance?—A. I saw them all pass over and I counted them and said to my wife, "There are just twelve of them."

Q. Now, you may go on and state what happened then.—A. After firing at the Miller Hotel they passed northward up the alley—a part of them at least.

Q. Did you see any go east on Thirteenth street?—A. No, sir; but of course some may have gone east on Thirteenth street without my having seen them.

Q. Where did you hear firing then?—A. In about two minutes after they passed northward up the alley I counted five more shots,

and in about two minutes thereafter 12 negroes—negro soldiers—appeared again going towards Fort Brown, and crossed Thirteenth street and entered the alley at the rear of the Miller Hotel.

Q. Going in what direction?—A. Going towards Fort Brown on double-quick and passed out of sight.

Q. Did you hear any more shooting after that?—A. I did not.

Q. So the last shooting you heard was up the alley, on the north side of Thirteenth street?—A. Yes, sir.

Q. Now, when these soldiers were in Thirteenth street at the mouth of the alley, at the time they were doing the shooting into the Miller Hotel, could you see how they were dressed?—A. Yes, sir; they were dressed in brown uniforms and a broad-brimmed soft hat, such as the soldiers wear.

Q. Now, Mr. Odin, at the time they were in Thirteenth street there, could you distinguish the kind of dress that they had on at any time other than when they were firing?—A. I could when they were in Thirteenth street, but I could not when they got into the alley.

Q. Then when they were in the alley, either to the north or to the south of Thirteenth street, you could not distinguish the way in which they were dressed, except by the flashes of their guns?—A. We could tell them when they were at the rear of the Miller Hotel when they were not firing.

Q. But when they were across the street, to the north of Thirteenth street, you could not tell them except for the flashes of their guns, or how they were dressed?—A. No, sir.

Q. Will you describe as nearly as you can the light, if any, that seemed to be upon these men during the firing that night in Thirteenth street, out of the alley?—A. The lights from the street lamps from Elizabeth and Washington streets gave us plenty of light to distinguish them plainly, and their dress, and to tell distinctly that they were negroes.

Q. Did you have any difficulty at the time, Mr. Odin, in seeing the faces of these men?—A. No, sir; for they were at times looking up directly towards the window.

Q. And you state positively that they were negroes?—A. Yes, sir.

Q. And dressed in the uniform of the United States soldiers such as were stationed at Fort Brown at that time?—A. Yes, sir.

Q. Now, Mr. Odin, will you state as to the character of the voices of these men who spoke during the shooting?—A. They spoke in the manner and vernacular of the negroes. If I had not seen them by the flashes from their guns I would have known by their voices that they were negroes by the manner of their speech and accent.

Q. Now, you state that you were sitting in one of the windows facing on the alley in the rear of the Miller Hotel, on the second floor, when you first heard shots that night?—A. Yes, sir.

Q. In what direction were those first shots that you heard?—A. Down the alley, towards Fort Brown.

Q. And from the time you heard those first shots until the time you heard the last shots to the north of Thirteenth street, in the alley, about how many minutes elapsed?—A. About twelve minutes.

Q. Did you, Mr. Odin, see the lieutenant of police, Dominguez, on that night?—A. No, sir.

Q. Did you hear a horse going by on Thirteenth street in the direction of Elizabeth street?—A. Yes, sir.

Q. How long was that before you heard firing or saw them firing in the alley at the rear of the Miller Hotel?—A. About a half minute.

Q. Did you see any person on Thirteenth street during the time of his firing other than these colored soldiers?—A. No, sir.

Q. Mr. Tillman has stated that he passed along Thirteenth street, going toward Washington street from Elizabeth, a short time before he firing occurred in the vicinity of the Miller Hotel. Did you see or hear him?—A. I heard some one person pass up Thirteenth street.

Q. But you did not see him?—A. No, sir.

Q. That was before the firing had approached the alley towards the Miller Hotel?—A. Yes, sir.

Q. I will ask you, Mr. Odin, whether you know where Mr. Starck's house is located that was fired into that night?—A. No, sir.

Q. I will show you this plat (Exhibit A) and point out to you the location of Mr. Starck's house (which is No. 6 on this plat) on Washington street between Twelfth and Thirteenth streets, and ask you whether you heard any firing in that direction on that night?—A. I did not.

Q. After these men passed across Thirteenth street, going north in the alley, you heard some firing in the direction in which they had gone, did you not?—A. Yes, sir.

Q. About how many shots?—A. Five.

Q. Where were you at that time?—A. I was standing at my window facing on Thirteenth street.

Q. Did you remain at your windows during all this time, or did you at times go back into the room with your wife and children and then return to the window again?—A. I only left the window once during the time the shooting was going on, and that was during the time they were shooting north of us up the alley and while the soldiers were out of my sight.

Q. When your little boy fell back into the room, what did you do then?—A. My wife said, "They have shot Lee," and I said, "I reckon not; see if there is any blood on him;" and he said, "Mamma, I am not shot, but they came pretty near me." I was standing at the north window at the time.

Q. Where were your other children during this time, Mr. Odin?—A. They were in bed, except our little girl, who was standing by our side.

Q. Was she with you while the firing was going on in the alley at the rear of the hotel?—A. Yes; standing behind us.

Q. How old is she?—A. Three years old.

Q. Your other children were in bed, were they?—A. Yes, sir.

Q. Do you know whether they were asleep or not?—A. They were all awake, except the older one.

Q. How old is he?—A. Eleven years.

Q. He did not awaken during all the firing?—A. No, sir.

Q. Mr. Odin, as you sat at the window on the night of the 13th of August, about 12 o'clock, and heard the shooting down in the vicinity of Fort Brown and farther down the alley in the direction of the fort, did you anticipate at that time that there was any trouble or that the

soldiers were shooting into the houses in the city of Brownsville?—A. No, sir.

Q. After the soldiers reached the rear of the Miller Hotel did you anticipate that there was any trouble of any kind?—A. No, sir; not until they shot at the policeman.

Q. And then, for the first time, you appreciated the fact that there was serious trouble?—A. Yes, sir.

Q. How long after that was it that the shot was fired into your room facing on the alley?—A. Immediately after that.

Q. From the time when you heard the first shots until you heard the last ones that night was there anyone in your room other than the members of your family?—A. Yes; Mr. Davis, the hotel clerk.

Q. About what time did he come into your room during that shooting?—A. He came into our room during the time that the soldiers were up the alley at the rear of Tillman's saloon.

Q. Was he the only one in your room during the shooting?—A. Yes, sir.

Q. So during the time that the soldiers disappeared up the alley going north nobody had been in your room except the members of your family?—A. No, sir.

Q. And during that whole shooting did you or Mrs. Odin or any of your children leave your room?—A. No, sir.

Q. What light was there in your room that night when the shooting commenced?—A. A small oil lamp, turned partly down.

Q. Was the light turned down before any shooting commenced at all?—A. Yes, sir.

Q. During the progress of the shooting was the light interfered with in any way by either you or your wife?—A. No, sir.

Q. It was left in the same condition as when the shooting began?—A. When they left the alley going north my wife blew out the light.

Q. Mr. Odin, from the time that the men appeared there at the rear of the alley until they disappeared in the alley across the street, and during the whole of that shooting, both into your room and at the officer going down the street, and the different volleys that you have spoken about, about how long a period of time elapsed, in your judgment?—A. About one and one-half minutes, more or less, I should judge.

Q. I will ask you, from the direction of that shot which entered your room, where it must have been fired from?—A. From about the center of the alley at the rear of the Miller Hotel.

Q. Did you go into the room on the third floor immediately over your room that next morning?—A. No, sir.

Q. You don't know, then, what became of that shot that went into the ceiling of your room?—A. No, sir.

Q. How long after this occurred, on the night of the 13th of August, was it before you and your wife and family left Brownsville?—A. We left on the following morning, the 14th of August.

Q. Where did you go from there?—A. To Corpus Christi and San Antonio.

Q. Have you been back to Brownsville since that time?—A. No, sir.

Q. Will you describe more particularly the condition of the window sash, the window out of which you were looking at the time the shot was fired on that night apparently at you and your wife?—A. The

lower sash of the window was raised to the height of our heads, and we were looking out with the top of our heads underneath the sash, and there was a wire screen in the lower half of the window. I was at the left side of the window, Mrs. Odin next to me on the right with her head close to mine, and our little boy at her side, with his face against the window screen. The ball entered the screen, then went through the sash, passed through it diagonally, and then went into the ceiling at about 4 feet from the rear of the room. Just before this shot was fired the little boy raised up and said, "Mamma, what is going on?" I said, "They are shooting the mad dog," and then the shot was fired into our window.

Q. At the time this was fired into your window, will you state more particularly what you saw and heard in the alley?—A. Immediately before this shot was fired in our window, the other soldiers fired a volley apparently down Thirteenth street to the left, and almost instantly the man who fired at us raised his gun and shot into our window and the flash from the other soldiers' guns revealed his face plainly, looking up and shooting at us, and he exclaimed, "We got another white bastard."

Q. Now, Mr. Odin, I will ask you about the distance from your window to the man who fired the shot at you?—A. I should say from the end of his gun to our faces it was about 12 feet.

Q. Do you recall anything else that happened there that night, concerning which I have not interrogated you, and about which you care to make a further statement?—A. No, sir.

Q. Were you before the grand jury or the citizens' committee that investigated this affair?—A. No, sir.

Q. Have you made any written or sworn statement to anyone other than the statement you make here to-day?—A. No, sir; I have not.

Q. Now, Mr. Odin, you have testified as to what you saw and heard there that night; I will ask you whether there has ever been any doubt in your mind as to whether those men were negro soldiers?—A. Not the least.

Q. You stated in the former part of your testimony that there were 12 negro soldiers in the rear of the Miller Hotel, and that you saw them and counted them; will you explain how you happened to count them there that night?—A. Because the first six came up three abreast in two columns, with another negro at their side, making seven. They stopped at the mouth of the alley and then one by himself followed behind on the run as the other ones ahead, and directly four more came up two abreast on double-quick or on the run; that made twelve.

Q. So, Mr. Odin, from the arrangement in which these men came up the alley you were at once enabled to make a calculation as to how many men there were there?—A. Yes, sir.

Q. They were not all huddled together in a bunch or crowd?—A. No, sir.

Q. Now, you have stated that when the men came back after the firing had ceased up in the rear of Tillman's saloon that there were 12 of them, and that you saw them out of your window which opens out onto Thirteenth street. I will ask you how you made that estimate as to the number?—A. Because they came three abreast in three columns and two abreast following behind, and one nearly at the front at the side. The three in front stopped about 10 or 12 feet from the

mouth of the alley or in the street, by an order to halt. The next three were close behind them, also the next three, and also the remaining two, and the single one was nearly at the front of the first row of three. Then the second row filed up in line with the first, and the remaining six separated about 10 feet from them to the west, and they stopped in the same order, and they came down the alley. Then some order was given (I could not hear that distinctly), and they formed a line of six about 10 feet apart, and remained about six or eight seconds, apparently looking up and down Thirteenth street. Then they formed in columns of three again, and an order of march was given, and they passed towards the fort, across the street and down the alley on the opposite side from our window, and disappeared.

Q. How were they marching—running or walking?—A. They were on the double-quick; they started on the double-quick. But about the time they entered the alley they were running very fast.

Q. Could you tell whether or not at that time they broke their formation?—A. Yes; I could see them as they passed along; they were in file as they passed out of sight.

Q. But at that time you state that they were running?—A. Yes, sir; and I heard them running after that.

Q. Did you see them enter the alley at the rear of the Miller Hotel?—A. Yes, sir. I went over from the Thirteenth street window to the rear alley window and saw them as they passed out of sight.

Q. And how far down the alley were they, about, when you lost sight of them?—A. About 15 or 20 feet down the alley from my window, I should judge.

Q. And that is the last you saw of them?—A. Yes, sir.

Q. Mr. Odin, I will ask you whether you saw any empty shells in the streets of the city of Brownsville the next morning?—A. Yes, sir.

Q. State under what circumstances.—A. I went into the alley about 5 o'clock the next morning and picked up a handful of empty shells. I found these shells all the way from the middle of Thirteenth street and in the mouth of the alley and down the alley at the rear of the hotel and some of them near the mouth of the alley north of the hotel. and soon after this I met a policeman who had several shells in his hands and I gave him part of those I had, and presently (I don't know how long) the mayor and several other citizens assembled, who also picked up a number of shells in the vicinity of the hotel.

Q. What did you do with the shells that you picked up?—A. I gave them to the policeman and to the mayor. I brought 5 home with me and I gave them to different people. I don't remember to whom I gave them. I gave them all away.

Q. I will show you these empty shells and ball cartridges which were given into my possession by the mayor and sheriff of Cameron County, and ask you whether the ones which you picked up on the morning of the 14th of August in the streets of Brownsville in the vicinity of the Miller Hotel were similar to those?—A. Yes, sir; they appear to me to be the same.

Q. Were you at home at the time that your wife made this statement to Mr. Stevens and the clerk here at San Antonio a few weeks ago?—A. No, sir; I was in Nevada, Mo.

Q. Do you think of anything else with reference to which you care to make a statement?—A. I would like to explain that the reason I was so certain about the shooting and the identity of the persons who

lid it, and about the number of shots fired, is because I have all my life been in a country where there has been a great many town "shoot-ups" (that is what they call them), and been accustomed to hearing shooting in the frontier towns, and on several occasions I have been in towns where there was a good deal of shooting done, that it became almost a habit that I kept pretty correct account of what happened. I was not alarmed or scared. In fact, I did not believe that there was anything serious happening until we heard the policeman's horse fall and immediately saw the negro raise his gun to shoot into our window. Then for the first time I realized it was a town "shoot-up."

HALE ODIN.

THE STATE OF TEXAS, *County of Bexar, ss:*

Hale Odin, being first duly sworn, deposes and says that he has read the foregoing testimony by him subscribed, and that the same is true of his own knowledge, except as to those matters therein stated upon information and belief, and that as to those matters he believes them to be true.

HALE ODIN.

Subscribed and sworn to before me this 4th day of January, 1907.

[SEAL.]

D. H. HART,

Clerk United States Court, Western District of Texas.

By A. I. CAMPBELL,

Deputy.

Senator LODGE. Mr. Chairman, when General Garlington testified before the committee he was asked in regard to the length of service and record of Mingo Sanders, and there was some question as to the length of service of other soldiers, and as to whether other records were so clear as his. I applied to the War Department for information, and received the following letter:

WAR DEPARTMENT.

Washington, June 8, 1907.

HON. H. C. LODGE,

United States Senate.

DEAR SIR: In response to your telephonic request of June 5 to be advised as to whether there is anything extraordinary in the length and character of the service of Mingo Sanders, late a member of the Twenty-fifth Infantry, also to be furnished with a brief record of a number of men, if there are any, who have served as long as Sanders, or longer, with equally good character, I beg leave to advise you as follows:

The official records show that Mingo Sanders, when discharged from Company B, Twenty-fifth Infantry, November 22, 1906, had a total service of twenty-five years, six months, and seven day. His character during prior enlistments is recorded as excellent and very good.

There are many men now in the Army who have rendered honorable service for twenty-six years or more, but it is believed that the following statements of service, compiled after a somewhat hasty search of the records, will be sufficient for your purpose:

David Robertson, sergeant, first class, Hospital Corps, has served fifty-three years in the Hospital Corps and in General Service. His character is recorded as excellent.

Frank M. Marshall, sergeant, first class, Hospital Corps, has served forty-seven years in that corps. His character is recorded as excellent.

Lewis Schultz, private, General Recruiting Service, has served thirty-six years in Troop M, Third Cavalry; Company H, Eighth Infantry, and General Recruiting Service. His character is recorded as excellent.

Richard O. R. Bergath, ordnance sergeant, U. S. Army, has served thirty-three years in Troops I and B, Eighth Cavalry; Companies C and D, Second Infantry, and noncommissioned staff. His character is recorded as excellent.

Joseph Boan, ordnance sergeant, U. S. Army, has served thirty-two years in Company D, Eighteenth Infantry; Battery B, Second Artillery, and noncommissioned staff. His character is recorded as excellent.

William G. Hardy, color sergeant, Fourth Cavalry, has served thirty-one years in Troop A and band, Seventh Cavalry; band and noncommissioned staff, Fourth Cavalry. His character is recorded as excellent.

Charles E. Mossey, sergeant, General Recruiting Service, has served thirty years in Battery I, Fourth Artillery; Battery B, Second Artillery, and General Recruiting Service. His character is recorded as excellent.

Felix Muraszko, commissary sergeant, U. S. Army, has served thirty years in Company E, Engineers; Troop K and noncommissioned staff, First Cavalry, and noncommissioned staff, U. S. Army. His character is recorded as excellent.

Albert E. Honnen, first sergeant, Seventy-eighth Company, Coast Artillery, has served thirty years in Battery I, Fifth Artillery; Battery G, Fourth Artillery; Battery G, Second Artillery; Battery H, Seventh Artillery; Ninety-seventh Company, Coast Artillery, and Seventy-eighth Company, Coast Artillery. His character is recorded as excellent.

John McGuire, private, Nineteenth Company, Coast Artillery, has served thirty years in Battery C, Fourth Artillery; Thirty-eighth Company; Coast Artillery; One hundred and second Company, Coast Artillery, and Nineteenth Company, Coast Artillery. His character is recorded as excellent.

Robert Knox, private, Company D, Twenty-seventh Infantry, has served thirty years in Company K, Fourth Infantry; Company G, Eighteenth Infantry; Company G, Third Infantry; Company D, Seventh Infantry; General Recruiting Service; Company F, Fourteenth Infantry, and Company D, Twenty-seventh Infantry. His character is recorded as very good.

John H. Staab, sergeant, Thirty-seventh Company, Coast Artillery, has served twenty-nine years in Battery A, Fourth Artillery, and Thirty-seventh Company, Coast Artillery. His character is recorded as excellent.

Edwin A. Wilcox, sergeant, Sixty-seventh Company, Coast Artillery, has served twenty-nine years in Company K, Seventh Infantry; Company G, Twenty-second Infantry; Battery F, First Artillery; Battery H, Fourth Artillery; Thirty-fourth Company, Coast Artillery, and Sixty-seventh Company, Coast Artillery. His character is recorded as excellent.

Patrick Moriarty, sergeant, One hundred and twenty-fourth Company, Coast Artillery, has served twenty-nine years in Company E, Fourth Infantry; Ordnance Department; Battery B, Fifth Artillery, and One hundred and twenty-fourth Company, Coast Artillery. His character is recorded as excellent.

Edward Hogan, first-class private, Ordnance Department, has served twenty-nine years in Company C, First Infantry; Company G, Tenth Infantry; Battery F, First Artillery, and Ordnance Department. His character is recorded as very good.

In addition to the foregoing, it may be of interest to you to know that the official records show that there are 2,466 enlisted men on the retired list of the Army. A majority of these men served more than thirty years, and many of them served very much longer than that.

Very respectfully,

WM. H. TAFT, *Secretary of War.*

Senator FORAKER. In connection with the introduction of that letter which the Senator from Massachusetts has offered, I desire to ask whether that letter states whether these men were none of them ever reprimanded or court-martialed?

Senator LODGE. The same statement is made in the letter about their records as is made about that of Mingo Sanders.

Senator FORAKER. The question that I asked General Garlington was whether there was another man with twenty-six years' continuous service who had never been court-martialed or reprimanded.

Senator LODGE. I asked that and they have told me that every one of these cases was that way.

Senator FORAKER. I did not notice that they answered specifically in regard to that point. I would like to have the War Department answer as to the point of my inquiry, whether there was any such record as that of Mingo Sanders, of such a length of service without reprimand or court-martial. It may be. I do not know about it.

The CHAIRMAN. We can get that information from the Department, of course.

Senator FORAKER. Yes.

TESTIMONY OF ALEXANDER J. LEVIE.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Please state your name in full, so that we may have it in the record.—A. Alexander J. Levie.

Q. Are you in the military service of the United States?—A. Yes, sir.

Q. To what organization do you belong at this time?—A. Company A of the Eighteenth Infantry.

Q. Company A of the Eighteenth Infantry?—A. Yes, sir.

Q. Since when have you belonged to A Company of the Eighteenth Infantry?—A. Since the 14th of May.

Q. Of this year?—A. Of this year.

Q. Where were you in the service, if in the service at all, prior to that time?—A. I served from February, 1904, until the last of July, 1906, at Fort Brown, Tex.; the remainder of the time at Fort Sam Houston, Tex.

Q. I want to get what regiments you have served in. When did you first enlist in the service?—A. January, 1895.

Q. In January, 1895?—A. Yes, sir.

Q. Where did you enlist?—A. At Louisville, Ky.

Q. And in what command?—A. The Eighteenth Infantry.

Q. The Eighteenth Infantry?—A. Yes, sir.

Q. That was for an enlistment of three years?—A. Three years; yes, sir.

Q. Did you serve out that enlistment?—A. Yes, sir.

Q. Where did you serve with your regiment during that time?—A. At Fort Bliss, Tex., and San Antonio, Tex.

Q. And then when that term of enlistment expired did you reenlist; and if so, in what command?—A. The same company.

Q. Company A?—A. Eighteenth Infantry.

Q. And you served another term of three years?—A. Yes, sir.

Q. And then when that term of enlistment expired what did you do?—A. I reenlisted in the same company.

Q. And served again three years?—A. Three years.

Q. Making nine years in all that you served in A Company and in the Eighteenth Infantry?—A. Yes, sir.

Q. Then you reenlisted in what command?—A. Company L of the Twenty-sixth Infantry.

Q. Company L of the Twenty-sixth?—A. Yes, sir.

Q. And served with it, as you stated a while ago, while it was at Brownsville?—A. Yes, sir.

Q. That is, from what time in 1905?—A. 1904.

Q. 1904?—A. Some time in February.

Q. Until it left Brownsville, in 1905?—A. 1906.

Q. Yes; 1906. At what time did you leave Brownsville?—A. I left Brownsville on the 30th day of July.

Q. The 30th of July, 1906?—A. Yes, sir.

Q. What time did your company leave there?—A. My company left there, I think it was, the 4th of July.

Q. Yes; the 4th of July; and were you or not of the detachment left behind—we have some testimony on that point—when your battalion went away from Brownsville?—A. I was one of that detachment.

Q. And you remained with that detachment until the 30th of July?—A. Yes, sir.

Q. Had Companies B, C, and D, of the Twenty-fifth Infantry, arrived before you left—the colored troops?—A. They arrived, I think two days before I left.

Q. That would be July 28?—A. Yes, sir.

Q. What rank did you have while you were in the Twenty-sixth Infantry?—A. I served two years and six months as a private; the remainder of the time I served as sergeant, L Company.

Q. Of L Company?—A. Yes, sir.

Q. You were made first sergeant at what time?—A. I was made first sergeant about the 1st of September.

Q. Of 1906?—A. 1906.

Q. And you served in that rank, did you, until you were discharged?—A. Yes, sir.

Q. And went out of the service at the expiration of that enlistment?—A. Yes, sir.

Q. How did you come to reenlist in the Eighteenth Infantry?—A. Well, it was my old regiment, and I had a preference for it.

Q. You wanted to go back to it?—A. Yes, sir.

Q. What rank have you in the Eighteenth?—A. Private.

Q. And you reenlisted in the Eighteenth in May last, a little over a month ago?—A. The 14th day of May.

Q. And that regiment is now stationed where?—A. At Fort Leavenworth, Kans.

Q. Is that regiment under orders to go to the Philippines?—A. Yes, sir.

Q. Now, Sergeant, tell us whether or not you were pretty well acquainted in Brownsville before you left there.—A. I knew a good many people there.

Q. State whether or not you knew a policeman by the name of Genaro Padron.—A. I knew him by the name of Padron.

Q. Padron?—A. Padron; yes, sir.

Q. You remember him, do you?—A. Yes, sir.

Q. Distinctly?—A. Yes, sir.

Q. State whether or not you saw him on any occasion shortly before the colored troops came there; and if so, give the date when it was, if you can, and the place and the circumstances.—A. I saw Padron on the evening prior to the arrival of the troops there.

Q. That is, if they arrived on the 28th, this would be on the 27th of July?—A. Yes, sir; the 27th.

Q. Where did you see him?—A. At the corner of Elizabeth and Twelfth streets, I believe, in front of the Merchants' National Bank.

Q. State whether or not there were others present.—A. Yes, sir; quite a number.

Q. Who, if you can remember?—A. Well, I didn't pay any attention at the time. I knew at the time a great many people who were there, but accurately I could not recollect very many names that were there.

Q. About how many people were present, if you can tell?—A. I should say about twenty-five or thirty people.

Q. About twenty-five or thirty people?—A. At least.

Q. About what time of the day was that?—A. In the evening, sir; it was just about sundown.

Q. How did you happen to be there at that time?—A. I had walked out of the garrison that evening down into the town.

Q. Were the colored troops expected at that time?—A. They were expected that evening.

Q. State whether or not you heard any conversation at the time and place mentioned in regard to their coming; and if so, by whom was that conversation, and what was said.—A. The people had congregated on the street that evening, expecting the arrival of the colored troops, and I had heard the remarks, and I halted at the corner of Twelfth and Elizabeth streets. They were very much worried, apparently, at the sending of the colored troops to Brownsville.

Q. State whether or not the remarks were of a friendly character in respect to their coming, or of a hostile character.—A. I should say hostile.

Q. Well, proceed.—A. They contended that the War Department knew the feelings of the people of Brownsville, that they would not stand for the colored troops, and that they were going to get rid of them. An old gentleman who was there made the remark that the first crooked move they would make they would annihilate the whole shooting match. Some one amongst the crowd made the remark that it might be a hard proposition to do up the battalion of the soldiers. He continued, saying that if there wasn't enough people in Brownsville they would call in the farmers from the surrounding country. Another gentleman who was there, whom I did not know, but afterwards found out who he was, said that if they wanted any assistance just to let them know and they would come down any time.

Q. Did you find out what his name was?—A. I inquired of a man I knew, of Brownsville, and was told that his name was McLean, and that he was a school-teacher at or near Santa Maria.

Q. That he was a school-teacher at or near Santa Maria?—A. Yes, sir.

Q. While this conversation was in progress, did you or not see the policeman Padron?—A. This old gentleman then went on to tell about how many times the colored troops had been in Brownsville, and while this conversation was going on, two policemen came up, Dominguez and Padron.

Q. Dominguez. Was that the lieutenant of the police force?—A. That was the lieutenant of police.

Q. You knew him?—A. Yes, sir.

Q. You knew him well?—A. Yes, sir.

Q. Then what occurred after they came up?—A. When the old gentleman got through, some one said: "Now, you policemen have got to keep your backbones about you; we are going to stand by you and we don't want you to give those niggers an inch." Padron pulled a dirk out of his sleeve—he was standing very close to me—and exhibited it and said that he had that for cutting purposes.

Q. State what was done with that; whether it was exhibited to the crowd generally.—A. Yes, sir; it was passed amongst the crowd.

Q. What did you say?—A. It was passed amongst the crowd, and they all looked at it.

Q. Please describe that dirk.—A. It seemed to me to be what we call, what the Filipinos call, a stiletto, with a brown handle to it, and a blade fully 6 inches long.

Q. What do you mean by a hilt?—A. The crosspiece at the end of the blade.

Q. A crosspiece?—A. Yes, sir.

Q. It had a handle with a crosspiece that would protect the hand?—

A. Yes, sir.

Q. And then a straight blade?—A. A straight blade, only it was sort of octagon shape.

Q. State whether or not that was exhibited there in the presence of the lieutenant of police, Dominguez.—A. Yes, sir.

Q. And to the persons in the crowd generally?—A. Yes, sir; to persons in the crowd. It was passed amongst the crowd.

Q. They took it and handed it about, and you saw it returned finally to Padron?—A. I can not remember it being returned to him.

Q. But you say that he had it, and took it from where?—A. He had it in his sleeve—pulled it from his sleeve.

Q. And said that he had that for—what was the remark?—A. He made a remark, a foul epithet to it. The substance of it was that he had it for cutting purposes.

Q. Cutting purposes. I wish you would look at the knife I now hand you and state whether or not that was the knife that he had and exhibited [showing knife to witness].—A. It was not a knife at all.

Q. It was not this knife?—A. No, sir.

Q. Did you see this knife at all on that occasion?—A. No, sir.

Q. Did you ever see that knife before?—A. (After examination of knife.) No, sir.

Q. Now, Sergeant, while you are on the stand I will ask you about another matter. You had experience in cleaning guns, of course?—A. Yes, sir.

Q. While you were in the Army?—A. Yes, sir.

Q. You had to clean guns all these years that you were in the service?—A. Had to clean my own gun; yes, sir.

Q. You carried the Krag rifle and the Springfield rifle during that time?—A. Yes, sir.

Q. You were familiar with both?—A. Yes, sir; I think so.

Q. Can you tell us what your experience has been in the cleaning of these high-power guns after they have been fired; how long it takes to clean one of them so as to remove all stains of powder and make it pass inspection, particularly a rigid inspection?—A. Well, it is a difficult matter, I consider. It is a difficult matter to clean a gun. I do not think that I could clean one in at least less than half an hour.

Q. Is that, according to your observation, the experience of other enlisted men in the commands where you have served?—A. Yes, sir.

Q. It takes all of them about that time?—A. I think so, and longer.

Q. Could you clean one of these guns, after it had been fired, in the dark so as to make it pass inspection?—A. I do not think I could.

Q. What has been your experience in the use of the thong brush that is supplied with the gun, found in the butt of it, for cleaning it?—A. It is not generally used; it is not used at all, in fact.

Q. Why is it not used?—A. There are no results from it. In the first place, after firing the gun you would not dare to put any kind of rag on the end of that thong brush. It would break and stop the gun.

Q. It would break?—A. It would break, yes; you could not pull it through your gun.

Q. Would it clean the gun if it did go through?—A. No, sir.

Q. How do you have to clean the gun in order to get it thoroughly cleaned?—A. Well, the majority of the men use this solution of sal-soda and water, and rags.

Q. What is your experience in the cleaning of guns, as to setting them aside and looking at them later and finding what the condition may be?—A. I find that no matter how careful you are—that is my experience, at least—after cleaning a gun, you may think you have it thoroughly clean, and in several hours afterwards, if you look at it, it looks very foul, and it will continue so for several days.

Q. So that you have to reclean it and retouch it?—A. Yes, sir.

Q. To keep it clean?—A. Yes, sir.

Q. In your opinion, could a gun be thoroughly cleaned—just the barrel of it—in two or three minutes of time, either by a rod and rags, or by the thong brush with rags, or in any other way that you know of?—A. From my personal experience, I do not think it could.

Q. At least, that is your experience?—A. That is my experience.

Q. And that is the experience of the men with whom you have served?—A. Yes, sir.

Q. Did you ever hear of men cleaning their guns, after they had been fired, in anything like as short a time as ten or fifteen minutes, so that they would pass inspection?—A. If a man had all the facilities, he might be able to do it.

Q. He might be able to do it in fifteen minutes?

Senator WARNER. He said ten or fifteen minutes.

Senator FORAKER. I am going to put the ten in.

A. He might do it if it was to pass immediate inspection.

Q. Immediate inspection?—A. Yes, sir.

Q. That is, in ten or fifteen minutes?—A. Yes, sir; or probably half an hour; but not any longer, I don't think.

Q. That is, it might pass inspection in half an hour or an hour afterwards?—A. Yes, sir.

Q. Or perhaps two or three hours afterwards?—A. Well, it would begin to show, and creep up again.

Q. It would begin to show?—A. Yes, sir.

Q. That is your experience?—A. Yes, sir.

Q. If anybody has ever had a contrary experience, you never heard of it?—A. No, sir.

Q. You never heard of anybody cleaning these guns in any shorter time than your experience has shown you was necessary to clean

them?—A. To thoroughly clean a gun, I certainly could not do it in less time than half an hour.

Q. Have you any relation whatever to the Twenty-fifth Infantry?—A. None whatever.

Q. Or to these colored troops?—A. None whatever.

Q. Or have you any interest in them?—A. None in the least.

Q. While you were sergeant of the guard, was it or not your duty to inspect the guns, to inspect the guards, for instance?—A. I have never been sergeant of the guard, sir. I have always inspected the company guard that mounted.

Q. You have always inspected the detail from your company?—A. Yes, sir; from my company.

Q. Was it your duty as inspector of the company guard to inspect their guns?—A. Yes, sir.

Q. So that you have had experience not only in cleaning guns but also in inspecting guns, have you?—A. Yes, sir.

Senator FORAKER. I would like to have now the two guns that were left here the other day by General Crozier, so that I may let the Sergeant look at them.

By Senator OVERMAN :

Q. Did you ever inspect any guns about two hours after they had been fired?—A. Yes, sir; that is, my own.

Q. Any but your own?—A. No, sir.

By Senator FORAKER :

Q. You have no interest whatever in this controversy, Sergeant, have you?—A. None in the least, sir.

Q. I wish you would look at the two guns now shown you. First tell me what kind of guns they were.—A. (Examining one gun.) This is the latest model Springfield rifle.

Q. That is the gun you now carry?—A. That is the gun we now carry; yes, sir.

Q. And that is the kind the Twenty-sixth Infantry had at Fort Brown?—A. I think not.

Q. Before they left there?—A. No, sir.

Q. What is the difference about this gun?—A. This has the 1905 sight.

Q. There is a difference in the sight?—A. And this is equipped for the knife bayonet.

Q. For the knife bayonet?—A. Yes, sir.

Q. So that you had guns different in that respect?—A. Yes, sir.

Q. But so far as the barrel and the chamber is concerned, it is the same gun?—A. I think it is identical.

Q. The only difference between the later issue and the former issue was the difference as to the sight—A. And the bayonet.

Q. And the bayonet?—A. Yes, sir.

Q. Now, will you kindly look at these guns and tell us whether they are clean or not? Look at both of them; see if you can get the light through them.—A. (Removing breech bolt from one gun and sighting through barrel). This rifle would not pass inspection under any officer in the service.

Q. That rifle would not pass inspection under any officer in the service. Lay that gun aside and take the other one.—A. (After examining second gun.) This one is equally as bad.

Q. That is equally as bad?—A. Yes, sir.

Q. Would that pass inspection under any officer under whom you have ever served?—A. This one [indicating]?

Q. Yes.—A. No, sir.

Q. You are looking simply at the barrel?—A. Yes, sir.

Senator FORAKER. The rifle that the witness was first shown is No. 245484. The rifle last shown to the witness is No. 198263.

By Senator FORAKER:

Q. Would you allow a man of your company to go on guard with a gun in that condition?—A. No, sir.

Q. What would you do with a man if he should present himself for duty with the guard with a gun in that condition?—A. It would be my duty to put on the supernumerary of the guard.

Q. To do what?—A. To put on the man detailed for supernumerary and send this man back to the quarters.

Q. Would you report him?—A. I would report him to the company commander.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Did you ever see those guns before?—A. Those guns [indicating]?

Q. Yes.—A. No, sir.

Q. They are both alike—that is, the guns are of the same manufacture and each is in a foul condition?—A. Each of them is in a foul condition.

Q. They are equally foul?—A. Pretty near so; yes, sir.

Q. What do you mean by "pretty near?"—A. Well, I would say that one is equally as bad as the other.

Q. Equally as bad as the other. They show no signs of having been cleaned, either of them?—A. They may have been partially cleaned, but the powder has crept up on them since they have been fired. They occur to me as guns that have been fired.

Q. Both of them show evidence of having been partially cleaned?—A. They might be.

Q. You see no difference in them?—A. No, sir.

Q. And you say powder may have crept up on them?—A. Powder has crept up in them, if there was an effort made to clean them.

Q. And you say after a gun has been cleaned so that it will appear all right within a few hours after it is cleaned, this may appear in the gun?—A. It will appear; yes, sir; that is my experience.

Q. That is usually after eight or ten hours, is it not?—A. Less time.

Q. What time?—A. Two or three hours; you can see the evidence very plainly.

Q. When they appear perfectly clean before that time, these stains will appear afterwards?—A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir.

By Senator OVERMAN:

Q. You say there has been an attempt to clean both of them?—A. There may have been; I can not say.

Q. Is one of them fouler than the other or are both about the same?—A. I think both about the same.

Q. You could not distinguish which of the two is the cleaner!—
A. Just looking at them, I thought the first gun I looked at was a little fouler than the last one.

By Senator FORAKER:

Q. The first was a little more foul?—A. Yes, sir.

By Senator WARNER:

Q. Which is the first gun you looked at?—A. I couldn't tell you, sir.

Q. Look at them.—A. You mean examine them?

Q. Look at them, yes; and see if there is any difference.

(The witness here removed the bolts from both guns and looked through the barrels.)

A. This gun here is, I would say, the fouler of the two.

By Senator WARNER:

Q. What is the number of that gun?

Senator FORAKER. Look at the number and see what it is.

The WITNESS. 245484.

By Senator WARNER:

Q. And what is the number of the other?—A. 198263.

The CHAIRMAN. Did he call the latter the cleaner of the two?

Senator FORAKER. He said the first one was the fouler of the two and the last one was more clean than the other.

By Senator WARNER:

Q. A gun that was cleaned twenty-four hours ago so that it would pass inspection now would show signs of the powder creeping up on it?—A. That is my experience; yes, sir.

Q. Although it would pass inspection at the time?—A. Yes, sir.

Q. And the soldier would think that he had his gun clean?—A. A man that has any experience of course knows that he has not got it clean. It takes several days so that it will remain in that condition.

Q. What is that?—A. It takes several days to get a gun so that it will remain clean.

Q. To get all of the powder out of it?—A. Yes, sir.

Q. That is, you have to clean it and reclean it and keep cleaning it?—A. Yes, sir; for several days.

Q. But, as I say, the gun that has passed inspection, that appears bright and clean, after standing some hours powder creeps up on it?—

A. Yes, sir.

Q. However clean the soldier has apparently gotten it?—A. Yes, sir.

Q. That is true?—A. Yes, sir.

Q. Now, when you speak of inspection, a gun passing inspection, you mean to pass it as a gun, as an entire gun—that is, all of it, the barrel and the bolt and the magazine and everything about it—the barrel outside and inside?—A. Yes, sir.

Q. I take it it would take but a very short time, would it, Mr. Levie, simply to clean the inside of the barrel itself so as to remove the powder stains, where you take it very shortly after it is fired?—A. Well, that is practically the only part that you have to clean.

Q. You do not have to clean the magazine? No powder goes back in the magazine?—A. Some burnt powder goes back in the magazine.

Q. How can any burnt powder get back in the magazine?—A. I don't know that I am able to—

Q. Is not that a very rare thing, and is it not only in a case where the primer of the cartridge is defective, and the striker pierces through, and that lets the gas of the powder back?—A. No, sir; I do not think so.

Q. You do not?—A. I am speaking now from experience, mind you. I find that on shooting these rifles you might not notice after firing, say 15 or 20 shots, but you will find that evidence of the powder, it seems, gets in the magazine. It is sort of waxy here [indicating] and it will make your gun run hard.

Q. After how many shots?—A. I don't know that I have had experience to say how many shots.

Q. Fifty or a hundred?—A. Oh; less.

Q. How many?—A. I am not prepared to state how many shots I have fired a gun without noticing any evidence of this, but on a day's shooting, say firing 60 rounds, you will find considerable evidence.

Q. How many times do you have to insert the ramrod—that is, the cleaning rod, as we call it—with sal soda, to remove the powder after it has been fired five or six times, and do it shortly after it has been fired, within an hour or five hours afterwards?—A. I do not know that I could give you any accurate idea how many times you would have to pump it up and down. The way I usually clean a gun, I clean it from the breech end with the rod. The way the soldiers usually do, and particularly myself, is to get about 2 inches of water in a bucket, with the solution of sal soda, so that the water will not get up on the iron here [indicating], because it will stain the iron wherever it gets on the iron; so that it will not get up but 2 or 3 inches and get up on the barrel, and so as to get the suction.

Q. So as to get the suction at the muzzle of the gun?—A. Yes, sir; so as to get the suction.

Q. Then, how many times do you have to work that up and down?—A. Probably fifty or a hundred times.

Q. Probably fifty or a hundred times?—A. I should think so; probably five minutes—that is, that would be the first thing we would do.

Q. Then what would be the next thing you would do?—A. Then thoroughly dry it out with rags.

Q. How long will that take?—A. It will take equally as long.

Q. Equally as long?—A. Yes, sir; I think so.

Q. Then the gun is clean?—A. No, sir; then we go at it with the same solution of sal soda again.

Q. You go at it with the same solution again?—A. Yes, sir; and raise up more of that.

Q. And then you dry the gun again?—A. Yes, sir.

Q. Are you through then?—A. No, sir.

Q. Then you give it the third dose of sal soda?—A. If it didn't look right, I would give it a third dose.

Q. Is it clean then?—A. No, sir.

Q. Then you give it a fourth dose?—A. If it looks bad enough, I give it the fourth dose.

Q. Then you go through another ten minutes. Then it is clean!—
A. Then we generally polish them out with this metal polisher.

Q. How long does that take?—A. I couldn't say exactly how long.

Q. Would that take ten minutes more?—A. I would think so; fully ten minutes.

Q. Ten minutes more?—A. And to get that out I wipe it out clean afterwards.

Q. So that you have altogether, now—in all—fifty minutes. That is correct, is it not?—A. I didn't count.

Q. You have taken fifty minutes in getting it thoroughly clean!—
A. I didn't count up how many I went; but I would say that the number of times that you would give it the solution of sal soda would all depend on how it looked in the barrel after you got through.

Q. Yes; and you might give it the first time the solution of sal soda, and it would appear clean?—A. If it would appear clean, we would wipe it out and give it the scrubbing out with the pomade—what we call pomade—which is a metal polisher.

Q. Then how long would it take to get that cleaned out?—A. It could be done in ten minutes.

Q. It could be done in ten minutes?—A. Yes, sir; the pomade.

Q. The pomade would take ten minutes?—A. Yes, sir.

Q. And the sal soda how long?—A. I would say that the sal soda—

Q. Altogether?—A. The sal soda and the dry wipings would take ten minutes.

Q. That would take fully ten minutes?—A. Yes, sir; that will take fully ten minutes.

Q. That would ordinarily get the barrel of the gun clean!—
A. Usually.

Q. That would be the case; that is your observation, you say, as well as your experience?—A. Yes, sir.

Q. You heard an old gentleman talking, you say. Who was that old gentleman?—A. I had seen him around Brownsville a good many times, but never knew his name. I asked a Mr. Falgout, a carpenter that used to work in the post, who he was.

Q. Was he there at the time?—A. Mr. Falgout?

Q. Yes.—A. Yes, sir; he was in the crowd.

By Senator OVERMAN:

Q. How do you spell that name?—A. F-a-l-g-o-u-t.

By Senator WARNER:

Q. What does he do in the post?—A. He sometimes worked there as a carpenter.

Q. Was he a citizen there in the town?—A. He was a citizen of Brownsville.

Q. So that you asked him what this old man's name was?—
A. Yes, sir.

Q. What was it?—A. Well, as well as I can recollect, he told me it was McDonough.

By Senator FORAKER:

Q. M-c-D-o-n-o-u-g-h?—A. I think that would be it; yes, sir.

By Senator WARNER:

Q. We have not heard of him before.

Senator FORAKER. Yes, you have. I made an inquiry about him.

Senator WARNER. Well, Senator, I do not remember it. Pardon me.

By Senator WARNER:

Q. About how old a man was he?—A. I should think about 60 or 65 years of age.

Q. With gray hair?—A. Yes, sir.

Q. Whiskers?—A. He had chin whiskers.

Q. A mustache?—A. A mustache and chin whiskers.

Q. A mustache and chin whiskers?—A. Yes, sir; he was shaved down to here [indicating], as well as I can recollect.

Q. His chin whiskers were gray?—A. Yes, sir.

Q. How tall a man was he?—A. I should judge about as tall as I am; 5 feet 7½ to 5 feet 8 inches.

Q. Did he exhibit any weapons?—A. No, sir.

Q. What did he say?—A. His first remark that I heard him make was that the first crooked move they made they would annihilate the whole shooting match.

Q. The first crooked move they made?—A. Yes, sir.

Q. They would annihilate the whole shooting match?—A. Yes, sir.

Q. What else was said?—A. He then proceeded to tell about the number of times that the negro troops had been there, and what they had done with them.

Q. That old man did?—A. Yes, sir.

Q. How many times did he say the colored troops had been there?—A. He said that that would be the fourth time the negro troops had been there, when they got there this time.

Q. You say he told about the other times they had been there. What did he tell?—A. He went on to say that General Sheridan brought the first ones that ever were there, during the war, and he said a good many of those got discharged there and remained around there. "But," he says, "they are all gone. We used to call them wild-cat niggers, and occasionally one of them was found dead in the brush, but nothing was thought about it."

Q. Nothing thought about it; yes?—A. Speaking to some of them that he knew there, he said, "If you remember, old man John White killed the last of them."

Q. Killed the last of them; yes?—A. Yes.

Q. That is, those that were discharged?—A. Yes, sir.

Q. Didn't kill any except those discharged?—A. No, sir.

Q. Just let them get discharged and then killed them?—A. Yes, sir; so I understood.

Q. So that they didn't do anything with the colored troops as troops, but let them get discharged and then killed them?—A. That was the first ones.

Q. What did they do with the next ones, kill them after they were discharged?—A. No, sir.

Q. What did they do with them?—A. He spoke about a troop that Captain Ayres had down there, and said that they made them walk the chalk line. That is about the only remark he made about them, that they made those niggers walk the chalk line.

Q. Was that the remark he made?—A. As near as I can recollect, that is about the remark he made, that they made them walk the chalk line.

Q. What else?—A. The conversation got general then as to what they had done with different niggers there that got discharged—those old ones.

Q. But the troops themselves—had you heard of anything being done with the troops except Captain Ayres's company that they said they had made walk the chalk line?—A. Those first ones—

Q. But that was after they were discharged?—A. No, sir; before they were discharged. "Of course," he said, "in those days we could do just as we liked with niggers. We could handle them." Those were the ones that Sheridan brought down.

Q. I suppose General Sheridan being along they could handle them just as they pleased?—A. I knew nothing about that, sir.

Q. Then what else was said?—A. There was something said about how some of the young fellows had beaten them, downtown, with bricks, and so forth; just jokingly.

Q. What did they say?—A. This man McLean spoke of young Egley beating one of these men down with a brick. He laid for him in an alley.

Q. This man McLean was what age?—A. To look at him, I should say about 40 years of age.

Q. He seemed to be a desperado?—A. No, sir; he seemed to be a very well-dressed gentleman.

Q. A peaceable-looking, nice-looking man?—A. Yes, sir; he appeared to be.

Q. What other remarks did you hear?—A. I don't know of any other remarks that particularly settled on my mind, sir. There was considerable talking; everybody was doing considerable talking during the intervals.

Q. Everybody where?—A. In the crowd that was standing there.

Q. Anywhere else?—A. No, sir; I left and went right home from there.

Q. You heard no talk before or afterwards?—A. No, sir; I never mixed up with the people of Brownsville.

Q. Answer my question. You heard no talk before or afterwards because you did not mix up with the people of Brownsville?—A. No, sir.

Q. That is all the conversation you heard?—A. I heard some conversation from men in Brownsville.

By Senator FORAKER:

Q. What was that?—A. I had heard conversation from the better class of citizens, who objected to the negro troops coming there.

Q. From whom?—A. Mr. Cross's clerk.

Q. What was his name?—A. I don't know his name.

By Senator OVERMAN:

Q. Did he have more than one clerk?—A. We called this his business clerk. We done considerable business there, the quartermaster did, and I had occasion to go there occasionally.

Q. What sort of a looking man was he?—A. He was a man about 5 feet 10. I think he is a Mexican. I know he didn't speak any English except through his interpreter.

By Senator WARNER:

Q. You heard him speaking through an interpreter?—A. Yes, sir.

Q. Whom was he speaking to through an interpreter?—A. He was speaking to me, sir.

By Senator TALIAFERRO:

Q. Who was the interpreter?—A. He was a Mexican, too.

Q. What was his name?—A. I can't tell you his name.

By Senator WARNER:

Q. How did you come to talk with him through an interpreter about these troops?—A. I was doing business there for the quartermaster, purchasing goods.

Q. And what did he say?—A. He said they were very much astonished at the Government sending them down there; that they didn't want them down there at all.

Q. What else?—A. That was about the gist of his remarks.

Q. Did you hear any other remarks that were made?—A. From him?

Q. Yes.—A. No, sir; I can't recall any there.

Q. What else did you hear?—A. I have heard other people talk in the same strain.

Q. Who else? That is, that they did not want colored troops there?—A. Mr. Maltby.

Q. What did he say?—A. That they did not want the colored troops there.

Q. What threats, if any, did he make?—A. He did not make any.

Q. He did not make any threats whatever?—A. No, sir.

Q. Mr. Cross's clerk did not make any threats?—A. No, sir.

Q. And the only thing that approximated a threat that you say you heard was in this crowd?—A. Was in this crowd; yes, sir.

Q. What day of the week was that?—A. I can not recall the day of the week.

Q. Or the day of the month?—A. It was on the evening of the 27th.

Q. What makes you remember that it was the evening of the 27th?—A. I fix that from the time the colored troops had got there, and the time I left there. They got there the evening of the 28th, and I left there the morning of the 30th.

By Senator OVERMAN:

Q. Were there any other soldiers down there when you were there?—A. No, sir.

Q. You went down there alone?—A. Yes, sir.

By Senator WARNER:

Q. You had your uniform on?—A. Yes, sir.

Q. Of a soldier?—A. Yes, sir.

Q. And who were in that crowd?—A. I can not remember of only two or three that were there at that time. I remember distinctly Mr. Thorn being there. He was the first man that got hold of this dagger.

Q. That is Doctor Thorn?—A. Doctor Thorn.

Q. The dentist?—A. The dentist.

Q. Who else?—A. I knew a man named Neal that was there, and a Mr.—

Q. What did Mr. Neal do?—A. I never saw him do anything, sir, so far as my recollection goes.

Q. You mean that he had no business?—A. He had an income from what I could learn. I never made any particular inquiries about him at that time.

Q. That is, he was a retired merchant?—A. He was a middle-aged man; he was not an old man, but quite an aged man; he had a gray moustache.

Q. You understood he had retired from business and had an income?—A. No, I can't say that; I don't know that I ever heard anything regarding him.

Q. You say that he had an income?—A. I understood that he did.

Q. Then you knew something about him. Did you make any inquiries regarding him?—A. No, sir.

Q. Who did you tell about this thing?—A. The only person I told about it at the time was Mr. Sharpe, the next morning; the only one I spoke to about it.

Q. Who was Mr. Sharpe?—A. The post blacksmith there.

Q. Did you mention it to anybody else?—A. I mentioned it, possibly three months afterwards, to my company commander.

Q. Who was that?—A. Captain Baldwin.

Q. Anyone else?—A. The next time I mentioned it was to Major Penrose.

Q. To Major Penrose?—A. Yes, sir.

Q. When was that?—A. As far as I can recollect, it was some time about the 1st of last April.

Q. Were you a witness in the Penrose court-martial?—A. I was not.

Q. How came you to mention it to Major Penrose?—A. Major Penrose sent for me; he asked me if I would report to his quarters; he was at San Antonio at the time; I went down there.

Q. Was that at the time the court-martial proceedings were going on?—A. Afterwards; afterwards. It was possibly pretty nearly a month afterwards, as far as I can recollect.

Q. How did he come to send for you?—A. I don't know, sir; I never did know.

Q. Did he ask you about this conversation?—A. He said that he had heard I had overheard a conversation.

Q. And that is all you told it to?—A. Yes, sir.

By Senator TALIAFERRO:

Q. You say you overheard this conversation?—A. Yes, sir.

Q. It was not directed to you? You were not all there talking together about this matter?—A. Sir?

Q. These people that were collected at the time you speak of were all talking among themselves, or did you overhear something that some of the party were saying?—A. I was standing at the corner there and they were collected around the corner—at this corner.

Q. Those people were?—A. Yes, sir.

Q. You were one of the party?—A. I happened to be there; yes, sir.

Q. Then why do you say you overheard it?—A. Well, I thought that was the proper way to put it.

Q. Were there any efforts made to conceal at all what was being said?—A. None whatever.

Q. Were they not talking right out to everybody that was in the crowd?—A. Yes, sir.

Q. Do you call that overhearing a conversation?—A. I probably should have said "heard."

Q. So that you wish to correct that expression?—A. Yes, sir; it probably would be better.

Q. Did you join in the conversation?—A. No, sir.

Q. Did you speak to anybody?—A. I asked Mr. Falgout who those two gentlemen were?

Q. And he told you?—A. Yes, sir.

By Senator OVERMAN:

Q. Do you understand Mexican?—A. No, sir; I do not.

Q. Did not Padron speak to you through an interpreter?—A. No, sir; he always spoke to me in English.

Q. Good English?—A. Not good English; but he can speak English.

By Senator TALIAFERRO:

Q. Did you examine this dirk?—A. No, sir.

Q. Did you handle it?—A. No, sir.

Q. Then how are you able to describe it?—A. It was passed around through the crowd.

Q. It was passed to everybody in the crowd but you?—A. Everybody that reached for it got it I guess, in turn.

Q. But you did not reach for it?—A. No, sir.

Q. And yet you have described it with great accuracy here today?—A. It was as close to me as this gentleman is here [indicating the stenographer].

Q. You say Padron speaks English?—A. Yes, sir.

By Senator WARNER:

Q. He speaks it quite well, does he not?—A. Broken.

Q. Quite well?—A. I can understand him very well.

Senator OVERMAN. Anybody could understand him?

By Senator WARNER:

Q. You had known him some time?—A. From the time I had been there, all the time I had been there. I had seen him as a policeman. He was a policeman on duty on Elizabeth street.

Q. You knew him?—A. Yes, sir.

Q. He seemed to be a quiet and peaceable man?—A. I never knew anything against him.

Q. You were there how long?—A. Two years and six months.

Q. And you had seen him; you were downtown, and you would see him frequently?—A. Yes, sir.

Q. And talk with him?—A. I can't say that.

Q. And the lieutenant of police, you knew something of him?—A. I had seen him.

Q. And you knew something of his reputation there, did you, as an efficient, honest, reliable man?—A. I can't say that I did. I never heard anything against him or for him.

Q. Neither for nor against him?—A. No, sir.

Q. He was there in the crowd. What did he say?—A. He didn't

say a word; at least, I didn't hear him. He may have spoken in Mexican, but I would not understand that.

Q. He may have spoken in Mexican?—A. He may have.

Q. Did he take the knife?—A. I do not think so.

Q. Did he see the knife?—A. Oh, certainly; could have seen it. He was standing right alongside of Padron at the time. They both came up together.

Q. And you say it was a kind of novelty?—A. It seemed so.

Q. And it was passed around?—A. Yes, sir.

Q. What was there novel about it?—A. It seems they made the remark that they had never seen one like it before.

Q. A knife like that?—A. It was not a knife, but a dirk.

Q. I know, but a dirk knife?—A. Yes, sir.

Q. They never had seen one like it before?—A. That was the expression; yes, sir.

Q. The blade was how long?—A. I should say fully 6 inches.

By Senator OVERMAN:

Q. You say you were first sergeant in the Twenty-sixth Infantry?—A. Yes, sir.

Q. And now you are a private?—A. Yes, sir.

By Senator WARNER:

Q. How long since you reenlisted?—A. I reenlisted on the 14th of May.

Q. This year?—A. This year.

Senator WARNER. That is all, I think.

By Senator FORAKER:

Q. You retained your rank of sergeant until your term of enlistment expired and you were discharged from the Twenty-sixth?—A. Yes, sir.

Q. Did you have any trouble at all?—A. No, sir.

Q. Have you your discharge with you?—A. No, sir.

By Senator OVERMAN:

Q. If you had stayed in that regiment, you could have retained your rank as sergeant?—A. Yes, sir.

By Senator FORAKER:

Q. You preferred your old regiment?—A. Yes, sir.

Q. You had served three terms of enlistment in it, and wanted to go back to it?—A. Yes, sir.

By Senator TALIAFERRO:

Q. Where did this conversation about the knife occur; where were they standing?—A. Right at the corner, in front of the Merchants' National Bank; that is the first bank out of the post from Brownsville, just on the corner, of, I think, Twelfth and Elizabeth streets.

By Senator OVERMAN:

Q. Had you taken any drinks that day?—A. I do not drink at all, sir.

By Senator FORAKER:

Q. You do not drink at all, do you, Sergeant?—A. No, sir.

Q. Now let me ask you another question. You were asked whether

or not any powder stains were ever found in the chamber of a gun, and I understood you to say that burnt powder seemed to get into the magazine?—A. Yes, sir.

Q. And that might come in from the firing of one shot or half a dozen shots as well as from 50 shots, might it not?—A. Well, it might take some time for any amount of it to collect in there.

Q. I will ask you if when the extractor pulls the exploded shell back into the magazine, if that is not when the gas or burnt powder might escape from the bore into the chamber?—A. If I said burnt powder, I want to correct that. I should have said that it was unburned powder.

Q. Unburned powder?—A. Yes, sir; unburned powder.

Q. I wish you would look at the chambers of these two guns that were submitted to you a while ago, and see in what condition they are.—A. (After examining guns. I can see no evidence of it in this gun at all.

By Senator WARNER:

Q. What do you say?—A. I can see no evidence of it, no traces of it at all, sir.

Q. Do you see any traces of it on the other one?—A. (After examining the other gun.) No, sir.

By Senator FORAKER:

Q. You can see no traces of powder in either of those guns?—A. No, sir.

Q. Now, I will ask you if, when the bolt goes forward and the cartridge is exploded, and then the man in charge of the rifle draws the bolt back, if the ejector, as it is called, does not seize upon it and pull it back into the chamber, opening up the barrel into the chamber?—A. When the bolt is drawn back the shell will come back. It is released here. When this thing throws it up, and it flies out [indicating], there is no particular direction that it will fly in. They may fly in any direction.

Q. That is, the shells may fly in any direction, but this is drawn back so as to open up the barrel [indicating with gun]?—A. Yes, sir.

Q. One shell is pulled back here to be thrown out, and then there is a clear entrance from the chamber into the barrel?—A. Yes, sir.

Q. Have you ever observed any gases or anything escaping, after firing, from the barrel into the chamber?—A. No, sir; no gas.

Q. It all goes forward, does it?—A. Yes, sir.

Q. I only asked for information.

By the CHAIRMAN:

Q. I understand from you that this is invariable; that to clean a gun immediately after it is fired is a simple matter, and it looks clean; but later on, and invariably, the gun will show signs of powder?—A. It will look worse than before you started to clean it.

Q. Is it possible, then, to clean a gun immediately after it has been fired so that it will remain clean, say six months—perfectly clean in the barrel?—A. I never had that experience, sir.

Q. In all cases the discoloration and dullness will come back, and the gun has to be cleaned at some time afterwards to make it perfectly clean?—A. Yes, sir; that is my experience.

Q. So that after firing a cartridge, if you clean it, it may pass inspection at that time?—A. Yes, sir.

Q. But in a week or a month it will need cleaning again?—A. Well, our experience is this, sir: We watch them very closely two or three days afterwards, and we clean them very thoroughly two or three days afterwards; and we finally get them so that we will not have to draw a rag through them in probably six months. It depends on the climate you are in.

By Senator LODGE:

Q. Just one question. This new smokeless powder fouls the barrel in a very different way from the old-fashioned black powder?—A. Yes, sir; I think so.

Q. Suppose a gun is cleaned and then set aside for three or four days and then looked at, will not the barrel look foul again? Will not the stains reappear?—A. Yes, sir.

Senator FORAKER. They will not reappear, however, if the gun is thoroughly cleaned?

The WITNESS. You are speaking about cleaning the gun once?

Senator LODGE. Cleaning the gun once.

The WITNESS. Yes, sir.

Senator OVERMAN. Cleaning it for an ordinary inspection?

The WITNESS. Yes, sir.

By Senator LODGE:

Q. So that if you clean it two or three hours after it is fired and then set it aside, the barrel will become foul again if it is not cleaned again?—A. That is my experience, sir.

By Senator FORAKER:

Q. But if the gun is thoroughly cleaned, as you would clean it if you were to work on it thirty minutes, that gun would not become foul again? If the gun were as thoroughly cleaned as it might be in thirty minutes, then it would not become foul again, as I understood you to say?—A. It will reappear.

By Senator TALIAFERRO:

Q. In other words, it is impossible to clean it in just one cleaning, so that in a day or two afterwards it will not look foul?—A. Well, I will not say impossible, because they might take considerable time on it and might get it out; but I have never devoted enough time to my gun so that I ever got it clean.

Q. And you have devoted as much as thirty minutes?—A. More.

Q. More than thirty minutes?—A. Yes, sir.

By the CHAIRMAN:

Q. In your gun it has always reappeared again, so as to require a second cleaning?—A. Yes, sir.

By Senator FORAKER:

Q. The gun before you which you think is the cleaner, can you tell whether that gun has been cleaned at all from the present appearance of it?—A. No; I would not like to say.

Q. Would your gun become as dirty after you had spent thirty minutes in cleaning it—would your gun become anything like as dirty as that gun is?—A. I don't think it would become as foul as that gun is.

Q. Neither one of these guns would pass the inspection of an officer whom you have ever served under, as I understand you?—A. Neither one of them; no, sir.

By Senator OVERMAN:

Q. The one that is not so foul as the other, could you tell whether that would pass an inspection soon after it had been cleaned, four or five hours afterwards?—A. No, sir.

Q. So that might have been cleaned so as to pass inspection?—A. You can wipe a gun out so that it will pass inspection a very short time after.

Q. Did you ever try the thong and brush?—A. I did when they got it first. The one that I have got now has never been out of my gun.

Q. Would it not be possible to take that thong and brush, and if the string did not break, take a rag and pull it through there, and then clean the gun sufficiently for it to be inspected, say two hours after the shooting, if it had only been shot five times?—A. Well, my judgment would be that with the thong and brush you could not.

Q. If the string did not break?—A. I have tried it on the range, firing between different ranges, to clean it, when we first got it.

Q. Did you try it with the rag?—A. Yes, sir. I may say, sir, that in firing at the target, between different ranges, I always attempt to clean my gun as well as I can, to get as much of the gases and lead out of it as I can, before I fire at the other range, but I never could do anything with this thong and brush, sir.

By Senator PETTUS:

Q. What was your occupation before you went into the Army?—A. Carpenter.

Q. Where?—A. In Michigan.

By Senator OVERMAN:

Q. Where did you enlist?—A. Louisville, Ky.

Q. How did you happen to go to Louisville, Ky., to enlist?—A. I left the north on account of it being so cold, came down to work for the winter, and when I went down through the Southern States I found I could get no employment there.

Q. What Southern States had you been in before you went into the Army?—A. Kentucky, and I have been down at Birmingham, Ala.

Q. Senator Pettus's State?—A. Yes, sir.

Q. How long did you stay in Birmingham?—A. I stayed there a little over a week, sir.

Q. Where did you go then?—A. I came back to Louisville, Ky.

Q. How long did you stay there?—A. I stayed there from some time in November, I think, until January, the latter part of January. I worked there for a Mr. H. H. Thornberry, who was a lawyer, I believe, in Louisville, Ky.

Q. Worked as a carpenter for a lawyer?—A. No, sir; he had a small home just outside of the city, near Jacob Park, and he employed me to do such work as was to be done around there. I was willing to do anything. I could not get any employment.

Q. You were not carrying on your trade there at all?—A. At the same time I did some carpenter work for him. I put up a stable for him.

Q. Where did you work before you went to Louisville?—A. Bad-axe, Mich.

Q. Were you raised in Michigan?—A. No, sir.

Q. Where were you raised?—A. Canada, sir.

Q. How long were you in Michigan?—A. Something like six years.

TESTIMONY OF JAMES W. NEWTON—Colored.

JAMES W. NEWTON, colored, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. State your name in full.—A. James W. Newton.

Q. Were you a member of the Twenty-fifth U. S. Infantry in August, 1906?—A. Yes, sir.

Q. Last year?—A. Yes, sir.

Q. To what company did you belong?—A. Company C.

Q. Were you with your company at Brownsville, Tex.?—A. Yes, sir.

Q. How long had you been in the service prior to that?—A. About seven years and four months.

Q. Where did you first enlist?—A. At Greenville, S. C.

Q. And in what command?—A. In the Twenty-fourth Infantry.

Q. And how long did you serve there?—A. I served in the Twenty-fourth Infantry five years, eleven months, and five days.

Q. Then you served two enlistments?—A. Yes, sir.

Q. What was the exact time, you say?—A. Five years, eleven months, and five days.

Q. How did you happen to be discharged before the expiration of your full term?—A. The first time I was discharged on account of short remaining term, for the convenience of the United States Government.

Q. That was the first enlistment?—A. Yes, sir.

Q. And the second time you served out your enlistment in full?—A. Yes, sir.

Q. And then you reenlisted in the Twenty-fifth?—A. Yes, sir.

Q. In Company C—where was it that you reenlisted this last time?—A. In Fort Missoula, Mont.

Q. Were both regiments there, the Twenty-fourth and the Twenty-fifth?—A. No, sir.

Q. How did you happen to enlist in the Twenty-fifth; was the Twenty-fourth there?—A. Yes, sir.

Q. Where was the Twenty-fifth?—A. The Twenty-fifth was in Fort Niobrara, two battalions.

Q. And when you were discharged from the Twenty-fourth at Fort Missoula you went from there to Fort Niobrara and enlisted in the Twenty-fifth, is that it?—A. No, sir; I reenlisted at Fort Missoula for the Twenty-fifth.

Q. How did you come to change regiments?—A. I thought that the Twenty-fifth was going back to the Philippine Islands before the Twenty-fourth, and I intended to go back to the Philippine Islands with them.

Q. Had you served in the Philippine Islands?—A. Yes, sir; on the first enlistment.

Q. You had been there with the Twenty-fourth?—A. Yes, sir.

Q. During your first enlistment?—A. Yes, sir.

Q. And when did you return from the Philippines?—A. February, 1902.

Q. You were with your company when it left Fort Niobrara, were you?—A. Yes, sir.

Q. And went to Fort Brown?—A. Yes, sir.

Q. It has been testified here that there was some trouble in Brownsville between a man by the name of Tate and a soldier by the name of Newton who belonged to Company C. Are you the soldier?—A. Yes, sir; I am.

Q. Please describe to us what occurred. Tell us all about it in your own way. First, let me ask you when it was, if you can tell?—

A. The 5th of August.

Q. On the 5th day of August, 1906?—A. Yes, sir.

Q. You remember what day of the week that was?—A. It was on a Sunday, if I am not mistaken.

Q. About what time was it—what o'clock?—A. Between 8 and 9 o'clock, as nearly as I can recollect it.

Q. In the evening?—A. Yes, sir.

Q. Was it before or after dark?—A. After dark, sir.

Q. Well, now, where did it happen?—A. It happened below the post-office, sir; in that section.

Q. Can you tell us on what street the post-office is situated?—A. I don't know but one street; I think it is Elizabeth street. That is the only street I know there.

Q. Is it situated on the street that leads out from the gate of the garrison?—A. I think it is, sir.

Q. At your left is a map hanging on the wall [referring to the map]. This is the reservation. Here are the barracks. That is Elizabeth street.—A. Yes, sir.

Q. Here is D barracks, and B barracks, and C barracks, and the unoccupied barracks.—A. Yes, sir.

Q. The guardhouse up here, the hospital over here, the officers' quarters over here, and the administration building here. Now, where is the post-office? Is it on this street that you enter when you go out at the gate and proceed in a straight direction?—A. Yes, sir; I think that is the street it is on, sir.

Q. You think it is. Well, about how far from the garrison is the post-office situated, if you can tell?—A. I think it is three or four blocks, more or less, sir.

Q. You don't know exactly?—A. No, sir.

Q. You were not familiar with the streets there?—A. No, sir.

Q. How long had you been at Brownsville?—A. I had been there ever since my battalion arrived there.

Q. Only about a week prior to this time, I suppose?—A. Yes, sir.

Q. The testimony is that you arrived there on the 28th of July?—A. Yes, sir.

Q. And this was the 5th of August?—A. Yes, sir.

Q. Had you been around through the town any, up to that time?—

A. I think I had taken a walk about three times.

Q. Had you become familiar with the streets?—A. No, sir; not very.

Q. Or with the location of the buildings?—A. No, sir.

Q. Well, this was Sunday evening, August 5, between 8 and 9 o'clock. Where were you going, and were you in company with anybody; and if so, with whom?—A. With Private Frank J. Lipscomb.

Q. Was he of that same company?—A. Yes, sir.

Q. Where were you going?—A. We were taking a walk, and had been by the post-office, sir.

Q. You had been by the post-office?—A. Yes, sir; and on the way from there up the street.

Q. And you were beyond the post-office, were you, going from the garrison?—A. Yes, sir.

Q. Were you armed?—A. No, sir.

Q. Neither of you?—A. No, sir.

Q. Did you have any kind of weapon?—A. No, sir.

Q. Were either of you drunk?—A. No, sir.

Q. Had either of you been drinking?—A. No, sir.

Q. It was Sunday evening. Well, now, what occurred? Just tell that in your own way.—A. As we passed beyond the post-office here, there was a party of ladies standing on the sidewalk, and they were standing in such a position that we had to walk by file in order to pass them, and as I passed them I said something to Frank—I have forgotten what it was—and when I looked around this way again, why, some one had drawn back, and as I turned that way he struck me with a revolver and knocked me down.

Q. Did you pass through that crowd of ladies?—A. No, sir.

Q. Standing on the sidewalk?—A. No, sir; between them and the fence.

Q. You went between them and the fence?—A. Yes, sir; they standing around to my left—to our left—and we had to walk by file in order to keep from pushing against them.

Q. Were you going from the post still?—A. Yes, sir.

Q. On which side of the street were you—the right-hand side as you went out?—A. The right-hand side; yes, sir.

Q. And the ladies were standing on the sidewalk?—A. Yes, sir.

Q. And there was a space to the right between them and the fence?—A. Yes, sir.

Q. Between the sidewalk and the fence?—A. Yes, sir.

Q. And when you came up you say you stepped off towards the fence and passed around in single file?—A. Yes, sir.

Q. Did you strike any lady?—A. No, sir.

Q. Or jostle any lady?—A. No, sir.

Q. Or touch any lady?—A. No, sir.

Q. Did you try to go through the crowd of ladies?—A. No, sir.

Q. Did you speak to any of the ladies?—A. No, sir.

Q. Did you speak to anybody?—A. No one at all, only my comrade who was with me, sir.

Q. Did you know the man was going to strike you until he did so?—A. No, sir.

Q. What was it he struck you with?—A. It was a revolver, sir.

Q. And what effect did it have on you?—A. It knocked me insensible for a few seconds.

Q. You fell?—A. Yes, sir.

Q. Then what did you do?—A. After I came to myself he was covering me with his revolver, and he told me to get up and leave.

By Senator OVERMAN :

Q. I understand you went between the ladies and the fence?—
A. Yes, sir.

Q. Could you not have gone out on the other side, next the street and got past?—A. Not without walking out in the street.

Q. You could have stepped out in the street. How many ladies were there there?—A. There seemed to be a party of about six or eight.

Q. Six or eight ladies standing right there. You could have stepped off the sidewalk without any trouble?—A. There was room enough.

Q. There was room enough for you to run between the ladies and the fence?—A. Yes, sir; without disturbing them.

Q. You did not want to get off the sidewalk?—A. No, sir; I did not think it was necessary, as there was room to pass.

By Senator FORAKER :

Q. You could pass to the right of them, between them and the fence, without touching anybody?—A. Yes, sir.

Q. Mr. Tate has testified two or three times in regard to this matter. I read from an affidavit, or a statement made by him, found at page 89 of Senate Document 155, which was an exhibit of the report made by Major Blocksom. I want you to follow me as I read this and state whether or not it is true. Mr. Tate says :

On Sunday evening, August 5, 1906, at about 9 o'clock, I was walking down Elizabeth street in this city, in company with my wife and little daughter, Mrs. Virgie Wilkins, Mrs. H. Falsans, the two Misses Brulay, and Mrs. Fannie Putegnat. The ladies stopped to chat in front of the vacant lot next to the Stow residence and in front of Capt. Robert Dalzell's residence. They had stood there possibly three or four minutes when two negro soldiers came along the sidewalk going north. On reaching the ladies, who were standing close together in the middle of the sidewalk, the negroes, instead of stepping around them (as they could have easily done, since there was the vacant lot on one side and the street upon the other) pushed and elbowed their way through them, jostling and rubbing against them as they crowded through.

A. There was a fence there instead of a vacant lot.

Q. I was going to ask you. There was a fence there and not a vacant lot?—A. Yes, sir.

Q. Have you a distinct recollection of there being a fence there?—
A. Yes, sir.

Q. What kind of a fence was it?—A. It was a picket fence; what I presume they call a common picket fence, I think.

Q. A common picket fence?—A. Yes, sir.

Q. At any rate, there was a fence there?—A. Yes, sir.

Q. The point I particularly want to confer with you about is whether or not you did, as he says, elbow your way through the ladies?—A. No, sir.

Q. "Jostling and rubbing against them as they crowded through?"—A. No, sir.

Q. That is, you deny that?—A. Yes, sir.

Q. Unqualifiedly, do you?—A. Yes, sir.

Q. He says further :

My wife, who was standing next to me, was rudely jostled by one of them.

A. No, sir.

Q. That is not true, is it?—A. No, sir.

Q. He says:

I immediately drew my revolver and struck one of them—the one who jostled my wife.

So he identifies you in that way, if you are the man who was struck, as the one who jostled his wife?—A. He is mistaken.

Q. You deny that statement also, do you?—A. Yes, sir.

Q. He further says:

The other immediately took to his heels and ran away.

That was your companion?—A. Yes, sir.

Q. Lipscomb. Do you know what your companion did, too?—

A. No, sir.

Q. He further says:

Any statement that I cursed either of these negroes is unqualifiedly false.

A. He did, sir.

Q. He did curse, did he?—A. Yes, sir.

Q. What did he say?—A. He told me, after I had recovered myself and made an effort to get up, when I seen he had me covered with a revolver, he told me to "Get up and leave, or damn you I will blow your brains out. I will learn you how to get off the sidewalk when you see a party of white ladies standing there."

Q. Did you make any answer to him?—A. No, sir.

Q. Did you swear at him?—A. No, sir.

Q. Or at anybody?—A. No, sir.

Q. Were you entirely conscious or not, immediately after the blow was struck you?—A. Yes, sir; I was conscious.

Q. He did not destroy your consciousness so but that you knew all the while what you were doing?—A. Yes, sir; after I recovered.

Q. He says:

I told the one I knocked down that he would probably now know better than to run into white ladies on the sidewalk.

He made some such remark as that, as I understood you?—A. No, sir; he did not make the remark in that manner, sir. He made it with an oath, as I have before said.

Q. At page 2365 of the testimony taken by this committee he testified in effect the same, as to the circumstances, and as to your jostling these ladies. All statements of that same general character, namely, that you crowded through and jostled the ladies; all such statements as that are untrue, are they?—A. Yes, sir.

Q. You were asked a moment ago if you could not have stepped off on the other side out into the street. I suppose you could have done that, could you?—A. I could have did so, but there were passing room there, Senator.

Q. You could have stepped to either side, so far as that was concerned?—A. Yes, sir.

Q. Did you show any disrespect of any kind whatever to the ladies or to the man who struck you?—A. No, sir.

Q. Had you any thought of any difficulty whatever?—A. No, sir.

Q. With him or anybody else?—A. No, sir.

Q. What did you do in regard to this matter?—A. After I returned to the post I reported to my company commander.

Q. When did you return to your post?—A. Immediately afterwards, sir.

Q. Who was your company commander?—A. Captain Macklin.

Q. You went immediately to him and made a report?—A. Yes, sir; after I first went to the quarters.

Q. Went to your company quarters?—A. To the company quarters first, and then from there to his quarters.

Q. What did you go to your company quarters for?—A. I wanted to wash some blood off my face.

Q. Did the wound bleed?—A. Yes, sir.

Q. Bled down over your face?—A. Yes, sir.

Q. You went to Captain Macklin and reported to him; told him all about it, did you?—A. Yes, sir.

Q. What did he say?—A. He said that he would report the facts to Major Penrose.

Q. Did you take any further steps in regard to the matter?—A. No, sir; no more than that I went to the hospital and was summoned by Major Penrose, I think the next day, to make out an affidavit, something like that.

Q. You were summoned by Major Penrose himself?—A. Yes, sir.

Q. The following day?—A. Yes, sir.

Q. Did you go to Major Penrose when you were thus summoned?—A. Yes, sir.

Q. That was to give a statement of the facts?—A. Yes, sir.

Q. Do you know what steps he took, or what he said he would do about it?—A. Yes, sir; I know what he said he would do.

Q. What did he say?—A. He said that he would report the facts, I think it was, to the collector of customs—no, sir; I did not know who the man was, and he first had to find out. So the hospital corps man, Sanborn, who dressed my wound the next day, asked me who struck me, and I told him I didn't know who the man was. He asked me, "Was he a tall man?" I told him "Yes." "Wearing a very broad-brimmed hat?" I said, "Yes." Said he, "I think I know who he is. I think he is the same fellow who has been beating up the Twenty-sixth Infantry around here."

Q. Said what?—A. "I think he is the same fellow that has been beating up the Twenty-sixth Infantry around here."

Q. Who said that, Sanborn?—A. Yes, sir; of the hospital corps.

Q. He was the hospital attendant?—A. Yes, sir.

Q. Is he the man who waited on you?—A. Yes, sir; the next day.

Q. Do you know a hospital attaché by the name of W. C. Nolan?—A. No, sir; Sanborn is the only one that I know of.

Q. Sanborn?—A. Yes, sir. I was dressed by some one the same night that I was struck, but I don't know who he was.

Q. Getting back to that, after you were struck you went back to your barracks and washed the blood off your face before you went to your captain's quarters, Captain Macklin, and reported to him?—A. Yes, sir.

Q. And then you said something about going to the hospital?—A. Yes, sir; I did go to the hospital the same night.

Q. Went up to the hospital right after you reported to the captain?—A. Yes, sir.

Q. And what did you go there for?—A. To get it dressed, sir.

Q. To get your wound dressed?—A. Yes, sir.

Q. Can't you tell me to whom you reported when you got there?—A. To the hospital?

Q. Yes.—A. I don't know, sir. I was looking around trying to find some one, and I think I went around to the dispensary, and I knocked on several doors, and they had gone to bed. He got up and asked me what was the matter, and I told him I was hurt, and he lighted the lamp and said, "Let's see;" asked me how did I come by this wound, and I told him I was knocked in the head with a six-shooter, and he asked me who was it did it, and I told him I didn't know.

Q. Who was that man that you had that conversation with?—A. It was the man who dressed the wound that night.

Q. Do you know who that man was?—A. I don't know his name, sir.

Q. Well, where was it you saw Sanborn, whom you mentioned a moment ago, and what was it you said to him?—A. The next day I went on sick report, and the surgeon sent me to the dispensary to have the wound dressed the next morning.

Q. That was the next day?—A. Yes, sir.

Q. And then you saw Sanborn?—A. Yes, sir.

Q. And he asked you to describe this man?—A. Yes, sir.

Q. And when you described him as a tall man, and so forth, he made the remark—what was it?—A. He said, "Yes; I think I know him; he is the same one that has been beating up the Twenty-sixth Infantry."

Q. The Twenty-sixth Infantry?—A. Yes, sir.

Q. W. C. Nolan testifies that the night you were hurt you came to the hospital, and this is what he says. I read first from the testimony of W. C. Nolan as taken by Mr. Purdy and reported at page 125 of the Purdy testimony, Part II of Senate Document 155. Mr. Nolan testifies:

I was on night duty at the hospital that night—came up to the hospital that night. After I had gone to bed I saw a man out on the front porch and he did not seem to know where he was going. I got up and went to the door, and asked what the trouble was, and he said, "I am hurt."

Do you remember meeting a man in that way and having that kind of a conversation?—A. No, sir; he had gone to bed, and I had to knock at several doors and ring bells to get them up.

Q. Finally somebody did come there?—A. Yes, sir.

Q. You were out on the porch when somebody came to you?—A. Yes, sir; in the rear.

By Senator WARNER:

Q. And he had gone to bed?—A. Yes, sir.

By Senator FORAKER:

Q. He had gone to bed, had he?—A. Yes, sir.

Q. He says:

I walked into the dispensary and sat him down in a chair and looked at him and found that his face was all covered with blood, and he had several cuts about his head.

Was your face still covered with blood?—A. No, sir.

Q. Was your wound bleeding still?—A. No, sir; my face was not covered with the blood. I was bleeding slightly at that time.

Q. Was your wound still bleeding?—A. Slightly bleeding.
Q. How were you keeping the blood from your face?—A. By my hat.

Q. By your hat?—A. Yes, sir; it was pulled tightly on my head.

Q. Might it not have come down onto your face, as he describes? How many cuts did you have on your head?—A. Two, sir.

Q. On which side?—A. The left, sir.

Q. He says:

I got some water and stuff and washed him off and asked him what was the matter.

Is that correct?—A. Yes, sir.

Q. He said, "I got hit in the head with a six-shooter." Is that correct?—A. Yes, sir.

Q. "I asked a good many questions about the accident, to see if he had been drunk, as we are supposed to find out about that, and I don't think that he was; he did not have any signs of having been drunk." I understood you to say that you had not been drinking at all?—A. No, sir.

Q. "I asked him how he got that lick, and he said he went by the post-office and some one ran out and hit him with a six-shooter. I asked him if that was all that he did—just go by the post-office—and he said that it was. I asked him who it was that hit him, and he said, 'Oh, that's all right; we'll get them sons of bitches some day.'"—A. No, sir; that is untrue.

Q. You did not make any such statement as that to him?—A. No, sir.

Q. "I told him then that he ought not to talk that way. I heard afterwards that the man who struck him was the man who claimed that this fellow ran between two white ladies." Now, with the exception of that remark by you, is that substantially a correct account of what happened?—A. The remarks that I made to the hospital corps?

Q. With the exception of what you deny, is the rest of it about correct?—A. Yes, sir.

Q. And did you make any threats to him of any kind whatever?—A. No, sir.

Q. Did you ever make any threats to anybody of any kind whatever?—A. No, sir.

Q. Did you make any threats to your captain?—A. No, sir.

Q. To Major Penrose?—A. No, sir.

Q. To any officer?—A. No, sir.

Q. To any of the noncommissioned officers of your company?—A. No, sir.

Q. To any of the men in the company?—A. No, sir.

Q. Where were you on the night of the shooting?—A. I was on guard, at the guardhouse.

Q. You were on guard that night?—A. Yes, sir.

Q. Were you on post or off duty when the shooting commenced?—A. Off duty, sir.

Q. You were off duty?—A. Yes, sir.

Q. What relief were you on, if you remember?—A. No. 4, the third relief.

Q. You were on the third relief?—A. Yes, sir.

Q. Do you remember who was corporal of your relief?—A. Yes, sir.

Q. Who was he?—A. Corpl. Anthony Franklin.

Q. Were you asleep or awake when the shooting commenced?—A. Asleep, sir.

Q. And where were you?—A. I was in the guardhouse, sleeping near the sally port.

Q. What awakened you?—A. The reports of firearms first awakened me.

Q. The shooting?—A. Yes, sir.

Q. That awakened you?—A. Yes, sir.

Q. And you got awake and heard the firing continuing?—A. Yes, sir.

Q. Had you any intimation until you were awakened that there was to be any shooting of any kind that night by anybody?—A. No, sir.

Q. Had you tried to organize any conspiracy to shoot up the town in revenge for your wound?—A. No, sir.

Q. Had you ever talked of such a thing or had you ever heard of such a thing as a lot of soldiers going out to shoot up the town?—A. No, sir.

Q. That night or any other night?—A. No, sir.

Q. Never had heard of such a thing?—A. No, sir.

Q. Well, you were in the guardhouse when the shooting commenced? Now, what did you do, as nearly as you can tell?—A. When I got up I heard the sergeant of the guard calling out, "Guard, outside." Immediately after I got outside the call to arms sounded.

Q. Who was the sergeant of the guard?—A. Sergt. James R. Reid.

Q. And you heard him as soon as you got awake, calling, "Guard, outside?"—A. Yes, sir.

Q. Did you go outside?—A. Yes, sir.

Q. As quickly as you could?—A. Yes, sir.

Q. What was done with the guard?—A. The guard was fallen in, sir.

Q. Fell in—the guard was formed?—A. Yes, sir.

Q. That is, the reserve, the two reliefs that were there?—A. Yes, sir.

Q. Then what happened further, if you can tell?—A. The sergeant verified the guard. Then he taken two men and a corporal to send to No. 2 post.

Q. Two men and a corporal to go to No. 2 post?—A. Yes, sir.

Q. Where was No. 2 post?—A. In the rear of the barracks.

Q. Why did he send anybody to No. 2 post?—A. Because I heard him calling, "Guard, No. 2."

Q. You heard the sentinel—you could hear him calling, "Guard, No. 2?"—A. Yes, sir; I could hear him continuously calling "Guard, No. 2," sir.

Q. And who was it that the sergeant sent there—who were the corporal and men?—A. Corporal Burdett, of B Company, and Private Mitchell, of C Company, is one of the privates, but I don't remember the other private.

Q. After they were dispatched, state whether or not the bugle was sounded.—A. Yes, sir; the call to arms was sounded, sir.

Q. Who was the bugler?—A. Musician Robinson.

Q. Were you there when the call to arms was sounded?—A. Yes, sir.

Q. Well, then, what later was done with the guard? How were they disposed?—A. They were deployed around the guardhouse, deployed at each corner of the guardhouse, and the rest of it in front, sir.

Q. Where were you stationed?—A. I was stationed on the side. I could show you.

Q. I will call your attention to the map, then. There is the guardhouse, No. 37 on the map. Do you see it?—A. Yes, sir. I was stationed on this corner, sir, the left-hand corner.

Q. You were stationed at what corner?—A. This lower corner, sir.

Q. Here?—A. Yes, sir.

Q. In front?—A. No, sir; facing the street, facing the fence.

Q. Which way did you face?—A. Out this way, towards the garrison wall.

Q. This red line is supposed to be the garrison wall.—A. Yes, sir; towards the wire fence.

Q. It is a wire fence there?—A. Yes, sir.

Q. And a brick wall down here?—A. Lower down, sir.

Q. Behind the barracks, and you were stationed—I see there is a little building marked “fire house”?—A. Yes, sir.

Q. Where were you with respect to that building?—A. I stood at this corner. There is a ditch runs there, about 10 feet—

Q. Ten feet from what?—A. From the guardhouse.

Q. Ten feet from the guardhouse, and between the guardhouse and the fire house?—A. Yes, sir; between.

Q. And you were stationed there by that ditch?—A. Yes, sir; this side of the ditch.

Q. That is, between the ditch and the guardhouse?—A. Yes, sir.

Q. Anybody there with you?—A. There was a sentinel on the upper corner.

Q. Were you opposite the corner of the guardhouse?—A. Yes, sir.

Q. Next to the wire fence out on the garrison road and next to the parade ground?—A. Yes, sir.

Q. That is the corner to which I point?—A. Yes, sir.

Q. You were about 10 or 12 feet from that?—A. As nearly as I can remember, sir. It may not be quite so far.

Q. How were you stationed?—A. Lying down.

Q. Were you told to lie down by anybody; and if so, by whom?—A. By the sergeant of the guard.

Q. Were all the guard told to lie down?—A. Yes, sir.

Q. You were placed there, and you were lying down. Now, was there somebody opposite the other corner?—A. Yes, sir.

Q. And then were others stationed around in the rear?—A. At the other corners; yes, sir.

Q. And somebody in front?—A. Yes, sir.

Q. That is the way the guard were stationed?—A. Yes, sir.

Q. How long did you remain there that night?—A. About an hour or more.

Q. About an hour, perhaps. In the meanwhile, what did you do after the firing?—A. The firing ceased after we deployed in such manner, sir.

Q. After you were deployed?—A. Yes, sir.

- Q. Was the sergeant of the guard present there all the while?—
A. Yes, sir.
- Q. Were all the corporals of the guard present there?—A. Yes, sir.
- Q. Who were the other corporals besides Corporal Franklin?—
A. Corporal Wheeler and Corporal Burdett.
- Q. Did you see all those corporals there?—A. Yes, sir.
- Q. How many men did you see there when the guard was formed?—A. I don't remember, sir, how many men there were.
- Q. Were any of the men missing?—A. Not that I know of.
- Q. Did you hear of anybody being missing?—A. No, sir.
- Q. Where did this first firing that awakened you seem to be located?—A. On that side of the garrison, sir.
- Q. You say on that side—do you mean out behind the barracks?—
A. It sounded that way.
- Q. Towards the town?—A. Yes, sir; it sounded in that direction.
- Q. Couldn't you tell whether it was outside or inside the garrison wall?—A. Not before I awakened, sir; not until we came out from the guardhouse.
- Q. Not until you came out?—A. No, sir.
- Q. That is, when you first heard it you could not just tell where it was?—A. No, sir.
- Q. Only that it was down there somewhere in that direction?—
A. Yes, sir.
- Q. When you got into position out there near the ditch, 10 or 12 feet away from the guardhouse, stationed there as a sentinel, and lying down, could you still hear the firing?—A. Yes, sir.
- Q. If so, where was it?—A. It sounded in this direction, there, sir.
- Q. That is, down along what we call the Cowen alley, as I point to it here?—A. Yes, sir; it was in that direction.
- Q. The firing seemed to go farther away from the fort, did it not?—A. I don't understand.
- Q. The firing seemed to go farther away from the fort, did it not, uptown?—A. Yes, sir; that is the way it sounded to me.
- Q. Now, do you know who did that firing?—A. No, sir.
- Q. Did you have anything to do with it?—A. No, sir.
- Q. Did you ever request anybody to avenge this striking you by Mr. Tate?—A. No, sir.
- Q. Did you ever suggest anything to anybody, such as going downtown and punishing anybody for it?—A. No, sir.
- Q. I understood you to say you do not know who did the shooting that night?—A. No, sir.
- Q. No knowledge of it at all? Have you at any time ever refused to tell anybody all you knew about it?—A. No, sir.
- Q. Then, in short, you had nothing to do with it, and do not know who did have anything to do with it?—A. No, sir.
- Q. You were one of the 12 men arrested, were you not?—A. Yes, sir.
- Q. And taken to Fort Sam Houston?—A. Yes, sir.
- Q. You were visited there by General Garlington, were you not?—
A. Yes, sir.
- Q. Do you remember his visit to you?—A. Yes, sir.
- Q. Did you keep from him any information whatever that you had?—A. No, sir.

Q. Told him everything you knew, did you?—A. Yes, sir.

Q. You denied to him that you had anything to do with the shooting, did you?—A. Yes, sir.

Q. And denied that you had any knowledge of anybody who did have?—A. Yes, sir.

Q. And you have told that same story, in that same way, to everybody else, haven't you?—A. I did not have as much to say to General Garlington as I have said here, because he did not require as much, sir.

Q. He did not ask you so much?—A. No, sir.

Q. But you answered everything that he asked you, didn't you?—A. Yes, sir.

Q. And have you ever at any time refused to answer any questions?—A. No, sir.

Q. Have you ever, when inquired of about this, taken on a "wooden" look?—A. Sir?

Q. Have you ever, when inquired of about this matter, put on a "wooden" look?—A. No, sir.

Q. Or a stolid look?—A. No, sir.

Q. Have you changed your expression in any way on that account at any time?—A. No, sir.

Q. Charges were preferred against you that you had participated in that. Have you at all times been ready to be tried?—A. Yes, sir.

Q. You never asked that the trial be postponed?—A. No, sir.

Q. In what capacity did you serve in your company—I mean did you serve as company clerk?—A. Yes, sir.

Q. Who appoints the company clerk?—A. The company commander.

Q. That was Captain Macklin?—A. Yes, sir.

Q. Did you ever have any trouble of any kind with your officers?—A. Not that I know of, sir.

Senator FORAKER. I put in evidence here the record of this witness as furnished by the War Department and found at page 263 of Senate Document 155.

The matter referred to is as follow:

JAMES W. NEWTON.

Enlisted March 29, 1899; was honorably discharged as a private of Company F, Twenty-fourth Infantry, March 5, 1902, for the convenience of the Government; character good.

Reenlisted April 5, 1902; was discharged as a private of Company K, Twenty-fourth Infantry, April 4, 1905, on expiration of term of enlistment; character very good.

Reenlisted June 1, 1905; was discharged without honor as a private of Company C, Twenty-fifth Infantry, November 16, 1906.

By Senator FORAKER:

Q. Was there a James Newton in Company D?—A. Yes, sir.

Q. He was a different man altogether?—A. Yes, sir.

By the CHAIRMAN:

Q. Have you any initial to your name?—A. My name, sir, is James W. Newton.

Senator FORAKER. I have put in evidence the record of this witness as found on page 263 of Senate Document 155, and I call attention to the fact that the remarks after his discharges, prior to his discharge,

without honor, are, following the first discharge, "character, good;" following the second discharge, "character, very good," then, "discharged without honor." Now, at page 222 of the hearings before this committee I find a copy given of the charge and specifications preferred against this witness, and I put them in evidence in this connection, as follows:

Charge and specification preferred against Private James W. Newton, Company C, Twenty-fifth Infantry.

Charge.—Conduct to the prejudice of good order and military discipline in violation of the sixty-second article of war.

Specification.—In that Private James W. Newton, Company C, Twenty-fifth Infantry, did without authority take from his or other companies stationed at Fort Brown, Tex., one (1) magazine rifle, caliber .30, model 1903, and did singly or in company with other party or parties unknown, take part in a disturbance in the streets of Brownsville, Tex., in which disturbance one citizen was killed and another wounded, by loading with ball cartridges and firing said rifle in said streets of said town and causing damage to the property of the inhabitants of said town. This on or about August 13, 1906.

H. CLAY M. SUPPLEE,
*First Lieutenant and Battalion Adjutant,
Twenty-sixth Infantry, Officer Preferring Charge.*

Witnesses: Sergt. James R. Reid, Company B; Sergt. George Jackson, Company B; Private John Hollomon, Company B; Sergt. Darby W. O. Browner, Company C; Corpl. Charles H. Madison, Company C; Corpl. Willie H. Miller, Company C; Private Charles W. Askew, Company C; Private Oscar W. Reid, Company C; Corpl. David Powell, Company D; Private James C. Gill, Company D; Private Joseph H. Howard, Company D, Twenty-fifth Infantry.

In confinement since August 25, 1906.

Rate of pay, —.

Previous convictions, four—December 2, 1905; April 28, 1906; June 4, 1906; June 23, 1906.

[First indorsement.]

FORT SAM HOUSTON, TEX., August 28, 1906.

Respectfully forwarded to the military secretary, Department of Texas, recommending trial by general court-martial. Under paragraph 962, Army Regulations, these charges have been investigated by the undersigned, as far as practicable with the means at hand, and I am of the opinion that it is doubtful if the allegations as set forth can be substantiated.

C. J. T. CLARKE,
Major, Twenty-sixth Infantry, Commanding.

Q. I find also this statement following the specifications:

Previous convictions four—December 2, 1905; April 28, 1906; June 4, 1906; June 23, 1906.

Do you know what those convictions were on account of?—A. There are some that I remember what they were for.

Q. What was the nature of them?—A. The first one that I was tried for was absence without leave.

Q. What was that? Do you know what your punishment was?—A. A fine of \$3.

Q. And what were the other punishments?—A. There was only one I remember of. The next one was for coming in off a practice march for foot inspection, and I was in the bathroom before that time; I was told to go to my bed, and I went to get a drink of water before I went there, and was caught in the bathroom. That was a fine of \$1.

Q. How much was the punishment in the other two cases, if you

remember?—A. They were \$1 also, but I don't remember what they were for.

Q. One of those punishments was a fine of \$3?—A. Yes, sir; that was the first offense.

Q. And that was for being absent without leave?—A. Yes, sir.

Q. Absent from where, from camp or the barracks?—A. Yes, sir; from the garrison.

Q. One of them occurred at Fort Niobrara?—A. At Fort Niobrara.

Q. And the other punishments were \$1 each, were they?—A. Yes, sir.

Senator FORAKER. Now, I have sent to the War Department and obtained the official record, which confirms what the witness says, and I desire to insert here the following letter from the War Department, giving the military record of James W. Newton, of the Twenty-fifth Infantry.

The letter is as follows:

WAR DEPARTMENT,
THE ADJUTANT-GENERAL'S OFFICE.
Washington, June 5, 1907.

ION. J. B. FORAKER. *United States Senate.*

SIR: In response to your letter of the 4th instant, received to-day, in which you request the military record of James W. Newton, late private, Company C, Twenty-fifth Infantry, with special reference to the "previous convictions" mentioned in the charge and specification for violation of the Sixty-second article of war, four in number, namely, December 2, 1905, April 28, 1906, June 4, 1906, June 23, 1906, I am directed by the Secretary of War to advise you what the records show as follows:

James W. Newton was enlisted March 29, 1899, and was discharged March 1, 1902, on account of short remaining term of service, a private, Company F, Twenty-fourth Infantry, with character good.

He reenlisted April 5, 1902, and was discharged April 4, 1905, by expiration of service, a private, Company K, Twenty-fourth Infantry, with character very good.

He reenlisted June 1, 1905, and was discharged without honor November 22, 1906, per paragraph 1. Special Orders, No. 266, War Department, November 9, 1906, a private, Company C, Twenty-fifth Infantry, service not honest and faithful.

He was tried by summary courts as follows:

On December 2, 1905, and sentenced to forfeit \$3 of his pay; on April 28, 1906, and sentenced to forfeit \$1; on June 4, 1906, and sentenced to forfeit \$1; and on June 23, 1906, and sentenced to forfeit \$1.

The nature of the offenses for which the soldier was tried by the before-mentioned summary courts is not of record in the Department, and there is no record of his trial by a general court-martial while serving in Company C, Twenty-fifth Infantry.

Very respectfully.

F. C. AINSWORTH,
The Adjutant-General.

By Senator FORAKER:

Q. Where are you living now?—A. In Greenville, S. C.

Q. That is your home, is it?—A. Yes, sir.

Q. That was your home before you went into the Army?—A. Yes, sir.

Q. It was testified by General Garlington that you had some kind of trouble on account of which you were arrested before you went into the Army. Can you tell us what the trouble was?—A. Yes, sir.

Q. What was it?—A. I was coming from a rehearsal one night and some of my friends got into trouble, and I was arrested with the same gang, sir.

Q. Were you with the party that was making the trouble?—A. No, sir; I was arrested with the same party, by them coming down the same street which we were coming up.

Q. What do you mean when you say you were attending a rehearsal, a rehearsal of what?—A. A rehearsal of a play for the benefit of the A. M. E. Church.

Q. They were going to give a church benefit?—A. Yes, sir.

Q. An exhibition for the benefit of the church?—A. Yes, sir.

Q. And they were rehearsing for the play?—A. Yes, sir.

Q. And you had been there in attendance upon that?—A. Yes, sir.

Q. Were you connected with the play?—A. Yes, sir.

Q. In what way?—A. I was one of the players, sir.

Q. One of the what?—A. One that was to take part in the play, sir.

Q. Do you remember what the play was?—A. "The Robbery and Murder of Col. Delmont De Rosa."

Q. Where did you get the text of that play?—A. I don't know, sir. Mrs. Emma J. Foster produced it. I don't know where she got it.

Q. How many people were connected with that play?

Senator WARNER. Is this important?

Senator FORAKER. Yes; I want him to tell about it.

A. As nearly as I can remember there was about fourteen.

Q. And you were on your way home from that, were you?—A. Yes, sir.

Q. You were engaged in that for the benefit of the church?—A. Yes, sir.

Q. Had you ever had any trouble of any kind in that community before this time?—A. No, sir.

Q. How long was that before you enlisted?—A. I think it was over a year before I enlisted.

Q. Did that trouble have anything at all to do with your enlisting?—A. No, sir.

Q. You did not enlist to get away from home to escape the law, or anything of that kind, did you?—A. No, sir.

Q. And you have been back home since you were discharged without honor?—A. Yes, sir.

Q. And are living in that same community?—A. Yes, sir.

Q. Have you had any trouble there at all?—A. No, sir.

Q. Have not been arrested?—A. No, sir.

Q. How have you been employed?—A. As a daily laborer, sir.

Q. What kind of labor are you employed at?—A. Partly painting sometimes, sir; and then again working at a lumber company.

Q. Working at whatever you can get to work at, I suppose?—A. Yes, sir.

Q. You say you had nothing to do with the disturbance that led to the arrest?—A. No, sir.

Q. They were people who were ahead of you?—A. Yes, sir.

Q. Were they going home from the rehearsal also?—A. I don't know, sir. One of the men had left before we had—left the house—and he went out and got into trouble and brought us into it the next day; but we didn't know anything about it, and we were arrested

the next day. He called our names, therefore we were arrested and had to suffer the same as he did, sir.

Q. You had to suffer the same as he did?—A. Yes, sir.

By the CHAIRMAN:

Q. What was the result of that arrest? Were you convicted of anything?—A. Yes, sir; a fine of \$10.

By Senator FORAKER:

Q. I was going to bring that out. You were fined, although the facts were as you have stated?—A. Yes, sir.

By Senator OVERMAN:

Q. What part did you take in the play?—A. I was a detective.

By Senator FORAKER:

Q. You were the detective?—A. Yes, sir.

Q. Well, did you study the work of detectives in that connection?—A. Just as it was in the play, sir; no further than was required in the play.

Q. You never have acted as a detective except in that case?—A. That is the only time, sir.

Q. I understood you to say that you were downtown two or three times in Brownsville before you had this trouble with Tate?—A. Yes, sir.

Q. Were you downtown any time after that?—A. No, sir.

Q. Never outside again after that?—A. Not down in that direction; only just outside of the garrison.

Q. About where outside of the garrison?—A. I don't know the street. It is on this street next to the wall over there—up above the guardhouse.

Q. Where were you there?—A. At this discharged soldier's saloon, sir—Allison's saloon.

Q. At Allison's saloon?—A. Yes, sir.

Q. When were you there?—A. I was there Saturday and Sunday and Monday.

Q. You were there the three days after you were paid, including your pay day?—A. Yes, sir.

Q. You were paid off on Saturday, the 11th, weren't you?—A. Yes, sir.

Q. And you were not out of the garrison except to go to that saloon after you were struck by Tate?—A. No, sir.

Q. Did you hear any talk in regard to your being struck by Tate, either at the Allison saloon or at any other place, of the character I have mentioned—that is, discussing it with a view to revenging yourselves?—A. No, sir.

Q. Never heard that. Were you in any other saloons downtown?—A. No, sir.

Q. Did you ever try to go into any of them?—A. No, sir; after I heard we were not allowed, I did not attempt to go in.

Q. You heard after you went there that you were not allowed to go into the saloons?—A. Yes, sir.

Q. Did you have any resentment towards the people of Brownsville on that account?—A. No, sir.

Q. Did you ever discuss that with anybody as something that ought to be revenged?—A. No, sir.

Q. You never complained of that to anybody, did you?—A. Sir!

Q. You never made any complaint of that, did you, to anybody?—A. No, sir.

Q. And you never sought to go into any saloon?—A. No, sir.

Q. Except the Allison saloon, kept by a discharged colored soldier?—A. Yes, sir.

Q. Senator Taliaferro wants me to ask you what the trouble was that you and others were arrested for in Greenville about a year before you enlisted, when you were going home from the rehearsal?—

A. This fellow struck another with a rock or something.

Q. He struck a colored man?—A. Yes, sir; they were all colored.

Q. He struck another colored man?—A. Yes, sir.

Q. He did not strike a white man, did he?—A. No, sir.

Q. White men had nothing to do with the quarrel?—A. No, sir.

Q. Do you know what they were quarreling about, or is that material—I do not care anything about that. You need not bother.—

A. No, sir; I did not know the nature of the disturbance.

Q. You were not present and you did not see it, and you only know what you heard about it afterwards; is that true?—A. Yes, sir.

(At 12 o'clock and 47 minutes p. m. the committee took a recess until 2 o'clock and 30 minutes p. m.)

AFTERNOON SESSION.

The committee reconvened, pursuant to the taking of recess, at 2 o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Warner, Pettus, Taliaferro, and Overman.

TESTIMONY OF JAMES W. NEWTON (COLORED)—Continued.

By Senator FORAKER:

Q. Now, Mr. Newton, do you know Sergeant-Major Taliaferro, of the Twenty-fifth Infantry?—A. Yes, sir.

Q. He testified before this committee. At page 1552 the following report of his testimony is found:

Q. You heard of this striking of Newton, didn't you?—A. Yes, sir.

Q. Did you pay any attention to that?—A. No, sir; I did not.

Q. Why not?—A. Because Newton was a man who drank to excess, and I thought he was liable to get into trouble most any place, at any time, and I merely thought that he had been downtown drinking and got into a fight down there and got beat up.

Q. That was his reputation, was it?—A. Yes, sir; that was my opinion of it.

Now, in view of that testimony, I will ask you to state, Mr. Newton, whether or not you were in the habit of drinking while you were a member of the Twenty-fifth Regiment, and whether you drank to excess while you were a member of the Twenty-fifth Infantry?—

A. Yes, sir; I drank, but not to an excess, sir.

Q. Did you have any fights, or get beat up, or anything of that kind?—A. Not that I know of, sir.

Q. That is, you would take a drink, would you?—A. Yes, sir.

Q. Were you drunk at any time—ever arrested for drunkenness?—
A. No, sir.

Q. None of these fines of a dollar each was on account of drunkenness?—A. Not that I know of, sir.

By Senator TALIAFERRO:

Q. Wouldn't you know?—A. I have most forgotten what the offenses were. Three of them I do remember, you know, and the others I don't remember just for what.

By Senator FORAKER:

Q. In one case you were fined \$3. Do you remember what that was for?—A. Yes, sir; that was for absence without leave.

Q. Not drunkenness?—A. No, sir.

Q. In neither of the other cases was it drunkenness, so far as you can remember?—A. No, sir.

Q. You remember about it?—A. I remember two others, sir.

Q. You remember two of the others?—A. Yes, sir.

Q. What were they?—A. One of them was for being out after check.

Q. After check?—A. Yes, sir.

Q. Yes.—A. And the other was for not appearing at the proper place for foot inspection.

Q. For foot inspection?—A. For foot inspection, after we had had one of those practice marches.

Q. And the other you do not remember?—A. No, sir; I don't remember.

By Senator OVERMAN:

Q. How many times were you arrested while you were a civilian, in North Carolina?—A. Once.

Q. Only once? You told about that this morning.—A. Yes, sir.

Senator FORAKER. I believe that is all I care to ask now.

By Senator WARNER:

Q. Mr. Newton, the one time you were arrested, which has been brought out by questions of Senator Foraker, you were perfectly innocent of any charge then?—A. Where was that at, sir?

Q. At your home.—A. At my home?

Q. Yes.—A. Yes, sir.

Q. You were tried before the court?—A. I was tried and fined; yes, sir.

Q. And fined?—A. Yes, sir; a fine of \$10 I had to pay.

Q. And the charge was assisting somebody in hitting another with a rock?—A. Yes, sir.

Q. How many of you were charged with doing that?—A. There was eight or ten of us, I think, had it.

Q. Eight or ten of you?—A. Yes, sir.

Q. How many rocks did you hit the man with?—A. He said he was stoned, so he said.

Q. He was stoned?—A. Yes, sir. Some one threw rocks at him, and then he said one had hit him with a rock.

Q. And you were not near the parties who threw the rocks?—
A. No, sir.

Q. It was a little strange that you should have been convicted under those circumstances, was it not?—A. Yes, sir.

Q. Who was the man that was stoned?—A. A man by the name of Anderson Johnson.

Q. Had you had any trouble with him?—A. Me?

Q. Any of you that were arrested?—A. I had no trouble with him.

Q. Any of you?—A. I didn't know, sir. They say that a man by the name of Hopkins had trouble with him.

Q. He left the rehearsal before the rest of you?—A. Yes, sir.

Q. Of this play. What was it, the Robber and what?—A. Yes, sir; he left before we did.

Q. What was this play—it is not important, but what was it—the Robber and the what?—A. The one which we were practicing for?

Q. Yes.—A. It was "The Robbery and Murder of Col. Delmont de Rosa."

Q. And when this man was returning from this rehearsal was when he was stoned?—A. I don't understand you.

Q. It was when you were returning from one of those rehearsals that this man claimed he was stoned by a lot of you?—A. Yes, sir.

Q. And you and several others were arrested for doing it?—A. Yes, sir.

Q. You denied it then?—A. Denied?

Q. Denied that you stoned him?—A. Yes, sir.

Q. They all denied it, didn't they?—A. Yes, sir.

Q. Every one?—A. No, sir.

Q. Did anybody admit that he stoned him?—A. One said that he hit him with a rock on account of his drawing a revolver on him.

Q. Drawing a revolver?—A. Yes, sir; but we were named, and therefore we had to suffer the consequences.

Senator FORAKER. I did not hear that.

The WITNESS. We were named, I say, and therefore we had to suffer the consequences.

By Senator WARNER:

Q. That is, the man who was stoned called your name?—A. Yes, sir.

Q. You were asked if you drank, and you said you never drank to excess?—A. Yes, sir.

Q. And then you were asked if you were ever drunk. You did not answer that.—A. Not during the time I was at Niobrara.

By Senator TALIAFERRO:

Q. Not while you were at Niobrara?—A. Yes, sir.

By Senator WARNER:

Q. Where else?—A. In the Philippine Islands.

Q. While you were on duty?—A. No, sir.

Q. It was while you were there with the soldiers?—A. Yes, sir.

Q. How many times?—A. We were in Manila.

Q. How many times were you drunk there?—A. I was drunk several times, but I had no trouble about that.

Q. I know, but I just asked you. Did you get into trouble with the people in the town there?—A. No, sir.

Q. You know Mr. Taliaferro?—A. Yes, sir.

Q. What was his position in the regiment?—A. He was my first sergeant, and afterwards my battalion sergeant-major.

Q. Sergeant-major, was he not?—A. Yes, sir.

Q. You think that Taliaferro was mistaken in this testimony read to you by Senator Foraker?—A. Yes, sir.

Q. He said, when he was asked why he didn't pay much attention to it:

Because Newton was a man who drank to excess, and I thought he was liable to get into trouble most any place, at any time, and I merely thought that he had been downtown drinking and got into a fight down there and had gotten beat up.

A. No, sir.

Q. (Reading:)

Q. That was his reputation, was it?—A. Yes, sir; that was my opinion of it.

A. No, sir.

By Senator OVERMAN:

Q. You were in Allison's saloon every day after it was opened?—

A. Sir?

Q. You were in Allison's saloon every day?—A. After it was opened.

Q. Every day after it was opened you were in there?—A. Yes, sir.

Q. What were you doing in there?—A. They had games going on in there, such as montecarlo.

Q. Did he have any liquor to sell?—A. No, sir.

Senator TALIAFERRO. Let him tell about the games.

Senator OVERMAN. I am going to; yes.

By Senator OVERMAN:

Q. Did you drink any liquor there?—A. No, sir.

Q. Only beer?—A. Yes, sir.

Q. You were there every day?—A. Yes, sir; I took a few beers there; but mostly my going there was on account of the games.

Q. What games did you play?—A. Monte.

Q. Monte?—A. Yes, sir.

Q. Gambling games?—A. Yes, sir.

Q. You were gambling?—A. Yes, sir.

By Senator TALIAFERRO:

Q. How long were you in the Philippines?—A. Two years and a half.

Q. You do not remember how many times you were drunk there?—

A. No, sir.

Q. You could not keep account of it?—A. No, sir.

Q. Did you gamble any in the Philippines?—A. Yes, sir.

Q. So that you were drunk and gambling in the Philippines?—A. Not while gambling; I would not be drunk.

Q. You were not drunk while you were gambling?—A. No, sir.

Q. Only gambled when you were sober?—A. Yes, sir.

Q. You did not take anything to drink while you were gambling?—A. No, sir.

Q. If you had gone out there with those soldiers and shot up the

town and shot off the arm of one of the policemen, and killed one of the citizens, you would have admitted it, would you not?—A. If I had did so?

Q. Yes; you would have admitted it if you had done it?—A. I knew nothing of it, sir.

Q. You knew nothing of it?—A. No, sir.

Q. If you had done it you would have admitted it?—A. If I had done it?

Q. Yes.—A. That I would have admitted it?

Q. Yes.—A. No, sir; I would not have admitted it.

By Senator TALIAFERRO:

Q. Would you not swear falsely to conceal it?—A. If I did it myself sir?

Q. Yes.—A. Why, yes, sir; if I had did it myself, I would.

By Senator WARNER:

Q. You were arrested twice, and two of these arrests were for being out after check?—A. Yes, sir.

Q. Check is 11 o'clock, is it not?—A. Yes, sir.

Q. And what time did you get in that night?—A. I had been in and went out again.

Q. You had been in and answered check and went out again?—A. Yes, sir.

Q. Where was this?—A. This was in rear of A quarters at Niobrara.

Q. How did you get out?—A. Just the plain way of going out.

Q. You just walked out?—A. Yes, sir.

Q. No trouble to get out after check, was there?—A. No, sir. They had a patrol out that night, though, when I went out and I didn't know it.

Q. Patrol out where?—A. At Fort Niobrara.

Q. Yes; but I say there was no trouble about getting out?—A. No, sir.

Q. There is no trouble to get out at Brownsville, if you wanted to?—A. I don't know if there was, if a man wanted to get out.

Q. I am asking you; there would not have been any trouble to get out if you had wanted to get out, after check?—A. No, sir.

Q. Any of the soldiers could go out? There was only one man back there, Sentinel No. 2?—A. Yes, sir.

Q. And he had all that range in front and rear of the barracks?—A. Yes, sir.

Q. And there would have been no trouble about getting over the wall and going out after check, would there?—A. I guess there wouldn't be.

Q. Without his seeing or knowing anything about it?—A. I guess there wouldn't be.

By Senator OVERMAN:

Q. What sort of an association have you in the Army, if you have one, for the soldiers to stand by each other if they get into trouble?—A. Not any that I know of.

Q. Haven't you any association?—A. Not that I know of.

Q. Don't you know of an association in the Army for the soldiers to stand by each other?—A. Yes, sir.

Q. You talked that among each other?—A. After the firing occurred I heard them talk about that.

Q. After the firing occurred you heard them talk about that each man must stand by the other?—A. Nothing like that.

Q. What was that?—A. They were wondering who did it.

Q. Nothing was said about that they must stand by each other?—A. I never heard anything to that effect, sir.

By Senator WARNER:

Q. This day you were knocked down, you and Lipscomb were together?—A. Yes, sir.

Q. How long had you been away from the post?—A. We had been away from the post three-quarters of an hour, as near as I remember.

Q. Where had you been?—A. We had been up near this saloon which I am speaking about now, where Allison was keeping, but it was before he opened, I think. Down by the post there is this street, Elizabeth—I don't know the names of the streets, but I know Elizabeth. We came from the post-office and were on the way from the post-office. We had left the post-office, going out that way.

Q. What time did you go out of the barracks, the post?—A. We went out somewhere about 8 o'clock, as near as I can remember.

Q. And this striking of you was 9 o'clock?—A. Somewhere between 8 and 9. I can't say positively, because I had no timepiece.

Q. And where had you gone in the meantime?—A. I don't know the names of the streets, but I could show you which way we went.

Q. You went up towards where Allison afterwards established this saloon?—A. In that direction.

Q. And how far in that direction?—A. We went out above the wire fence, along about there, sir, above this last quarters, through in this direction and downwards [indicating on map].

Q. You went past the last quarters; that is, the unoccupied quarters?—A. Yes, sir; the unoccupied quarters. The map does not show the street we went.

Q. Then you went uptown, north?—A. Yes, sir.

By Senator SCOTT:

Q. Did you go on a street or an alley?—A. This was a kind of an alley.

Q. There is the alley [indicating on map].—A. We went higher up than that.

By Senator WARNER:

Q. Up beyond Adams street?—A. Yes, sir.

Q. What were you up there for?—A. Just walking around through the town.

Q. Where were you going?—A. Just looking around the town. We were newcomers, and we were just looking around the town.

Q. Making observations?—A. Yes, sir; just walking around.

Q. What was up there to observe?—A. We were just getting familiar with the streets, as near as we could, so that if we should have to go anywhere we wouldn't get lost.

Q. It was not much of a town to get lost in, was it?—A. I don't

know whether it would be or not, but anybody not familiar with the place that way they would be apt to get mixed up very quickly.

Q. Get lost, how? If you were out at night?—A. I suppose you would.

Q. You didn't expect to get lost in the daytime?—A. I suppose not.

Q. You were familiarizing yourself with the streets, so that if you were out at night you would not get lost?—A. Yes, sir.

Q. What did you expect to be out nights for?—A. Well, going out on pass.

By Senator PETTUS:

Q. How many drinks had you taken before you were knocked down?—A. I hadn't taken any.

Q. Any beer?—A. I hadn't taken any.

Q. You had not taken a drink that night, of beer or anything else?—A. No, sir; because I didn't have any money.

By Senator OVERMAN:

Q. Did you go out in town after you were struck?—A. No farther than this saloon up here—Allison's.

Q. Allison's?—A. Yes, sir.

Q. You didn't go out in the town at all?—A. No, sir.

By Senator SCOTT:

Q. The saloons keep open on Sunday, then?—A. I think that they do, sir, if I am not mistaken.

Q. Speak a little louder.—A. I think that they do, because we never went in any that night, and I don't remember whether they were open or not.

By Senator WARNER:

Q. The Allison saloon kept open on Sunday?—A. That was the first Sunday he had been there, the 12th.

Q. Where did Allison sleep the night of the shooting up of Brownsville?—A. I don't know, sir.

Q. Didn't you ever hear?—A. I think that some one said that he was at his saloon, if I am not mistaken.

Q. Did not some one tell you that he was sleeping in the post?—A. Not that I know of, sir.

Q. You never heard that?—A. No, sir.

Q. After you were struck you came back and reported it to your captain?—A. Yes, sir.

Q. To anyone else?—A. After he reported it to Major Penrose, then I was called upon by Major Penrose to make a statement, after I told him what the hospital corps man, Sanborn, had said about it. Then he sent for me and asked me if I knew the man, and I told him that I didn't, but I thought Private Sanborn did, and Sanborn told Major Penrose that he didn't know positively whether his name was Tate or Bate—there was two of them that did that sort of thing to the soldiers—and he would try to find out which one it was, and Major Penrose asked him to find out which one it was, and he said that he would, and then he told me to keep quiet until he found out which one it was it.

Q. Private Sanborn had told you?—A. Yes, sir; he was the one who dressed the wound the next morning for me.

Q. And what was it Private Sanborn told you?—A. He said that he thought that he knew who this fellow was; that he had also been beating up the Twenty-sixth Infantry around there.

Q. He belonged to what company?—A. To the hospital corps.

Q. To the hospital corps?—A. Yes, sir.

Q. Did you go to the hospital before you saw Major Penrose?—A. Yes, sir; both times before seeing him.

Q. You went up there to get your head dressed?—A. Yes, sir.

Q. And when you got there it was so late, or for some reason, the man in charge of the quarters had retired, and you had to rap there some time before you could get him up?—A. Yes, sir; at the hospital, you mean?

Q. Yes.—A. Yes, sir.

Q. About what time was it that you went up there?—A. I don't know what time it was. I think they go to bed very early, though, at the hospital.

Q. What do you say?—A. I think it was very early, though.

Q. Have you not any idea?—A. Some time near 10 o'clock, I should say.

Q. Was it not near midnight?—A. No, sir.

Q. Ten o'clock, you think?—A. Yes, sir; somewhere near that time, I think.

The CHAIRMAN. Witness, the Senators are speaking in a good loud voice in addressing you, and I want you to do the same. It is very difficult to hear, and you must speak louder.

The WITNESS. Very well, sir. I will do so. I am a little hoarse, but I will do so.

By Senator OVERMAN:

Q. They told you a man by the name of Tate or Bate had struck you?—A. I don't know exactly the name of this man who struck me.

Q. Did you try to find out where Tate or Bate lived?—A. No, sir; I didn't try to find out where he lived at.

Q. You did not want to know where he lived?—A. No, sir.

By Senator WARNER:

Q. You went up to this man who was in charge there, a Mr. Nolan, who was connected with the hospital corps. He says he was on duty the night that you were hurt, and he says that he had gone to bed and you came up, and roused him up. That is true, is it not?—A. Yes, sir.

Q. And he asked you what you wanted, did he not?—A. Yes, sir.

Q. And you told him that you were hurt?—A. Yes, sir.

Q. That is true. And you showed him your head?—A. Yes, sir.

Q. Where the gashes were?—A. Yes, sir.

Q. Where the cuts were?—A. Yes, sir.

Q. That is true?—A. That is true, sir.

Q. And of course he asked you how you received that?—A. Yes, sir.

Q. And you told him how you received it?—A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir; that is correct.

Q. You told him you got hit in the head with a six-shooter?—

A. Yes, sir.

Q. And what else did you tell him?—A. He asked me where I was

at when I got hit. I told him where I was on Elizabeth street when I got hit, and he asked by whom, and I told him I didn't know who it was.

Q. You told him you were near the post-office?—A. Yes, sir.

Q. Walking by the post-office?—A. Yes, sir.

Q. And some one ran out and hit you and you didn't know who it was?—A. No, sir; I didn't tell him that some one ran out and hit me; but he asked me what was the reason of his hitting me, and I told him that I was passing a party of ladies, and that I asked him to tell me what the reason was, but he just covered me with a revolver, and I had to move on.

Q. Mr. Nolan says that when he asked you who struck you, you said, "Oh, that is all right." Did you say that?—A. No, sir.

Q. And then you added, "We will get them s— of b—s some day."—A. No, sir.

Q. You never told Mr. Nolan any such thing?—A. No, sir; I did not.

Q. How did you feel about it? Did you feel pleasant about being struck?—A. I felt all right after I made a report to Captain Macklin and he said that he would make a report to Major Penrose. I thought it would be carried out.

Q. Did you tell your comrades about it?—A. I told the men in the quarters, when I came back, how I got my head cut, and I told them—

The CHAIRMAN. Witness, again I must tell you that you must remember to speak louder.

The WITNESS. I told the man in charge of quarters when I returned.

By Senator WARNER:

Q. Who was that?—A. Corpl. Willie H. Miller.

Q. Did you tell anybody else?—A. I think some asked me. I retired to bed very quickly afterwards, sir.

Q. That night?—A. Yes, sir.

Q. Had they not gone to bed when you got in that night?—A. No, sir.

Q. What time was it when you got back from the hospital?—A. A little after 10. They were all in the pool room at that time, and I knew by that that taps hadn't gone then.

Q. You talked generally about it?—A. No, sir.

Q. Did you not tell them you were struck without any cause whatever?—A. I told them that I was struck without any cause, but after that night I did not have anything more to say about it to them, because no one didn't question me no more after that first night.

Q. And this first night, who was in the pool room? They were all around you and you showed them the gashes on your head.—A. I remember Corporal Miller.

Q. Did you not talk to the others, didn't you say?—A. I don't know their names; I have forgotten them.

Q. They were members of your company—I don't care about the names?—A. Yes, sir.

Q. Eight or ten of them?—A. Yes, sir; I told them how it occurred.

Q. You told them about the brutal way in which you had been attacked?—A. I didn't tell them the "brutal way" or anything like that.

Q. You told them you had been attacked without any cause?—A. Yes, sir.

Q. And that this man had knocked you down?—A. Yes, sir.

Q. And cursed you after you were down?—A. Yes, sir.

Q. What did they say about it?—A. They had nothing to say, only that it was a poor way to treat a person, or something like that.

By Senator FORAKER:

Q. They said it was a poor way to treat a person?—A. Yes, sir; that it was a poor way to treat a person.

By Senator WARNER:

Q. Anything else?—A. That is all I heard. They continued playing pool, those that were there.

Q. But I am asking you, was there anything else said?—A. No, sir.

Q. They just said that it was a poor way to treat a person and turned around and went to playing pool, and paid no further attention at all?—A. Yes, sir.

Q. The next day your head was bandaged up?—A. No, sir; the bandage was taken off.

Q. Taken off when?—A. It came off during the night.

Q. Then it left the scar?—A. Yes, sir; but it was fixed over with absorbent cotton.

Q. You went up again and had it fixed over with absorbent cotton, and put a bandage around your head?—A. No, sir.

Q. How did it stick there?—A. It had some plaster around it.

Q. Did any of your comrades ask you how that came about?—

A. They could not see it on account of my hat.

Q. You kept it concealed?—A. It was where it could not be seen after my hat was put on, after being bandaged.

Q. Did anybody else ask you about it?—A. No, sir.

Q. Except Major Penrose?—A. No, sir; no one else that I remember.

Q. You never spoke of it again to anyone?—A. No, sir.

Q. Just avoided it?—A. Yes, sir.

Q. Why did you?—A. Major Penrose said that he would see about it.

By Senator OVERMAN:

Q. When you went down to the barroom that next day, you talked about it in the barroom, did you not?—A. No, sir.

Senator FORAKER. When did he say that he went to the barroom the next day?

Senator OVERMAN. He said that he went to a barroom the next day.

Senator FORAKER. The saloon was not opened at that time.

By Senator FORAKER:

Q. The 11th, 12th, and 13th were the only days that the saloon was opened?—A. Yes, sir.

Q. When you went there?—A. Yes, sir.

By Senator OVERMAN:

Q. The saloon was open on Sunday?—A. Yes, sir; and the morning of the 13th.

By Senator WARNER:

Q. You were never asked by the rest of them at all?—A. No, sir.

Q. As to how it happened?—A. Yes, sir.

Q. You felt pleasant about it?—A. Yes, sir.

Q. And you were satisfied?—A. Yes, sir; after Major Penrose said that he would see about it, I felt satisfied about it.

Q. When you heard the shooting that night, where was the shooting, the night of the 13th?—A. It was somewhere in the town, as near as I could judge, sir.

Q. How far uptown?—A. I could not say.

Q. How far away from the barracks?—A. The first I had heard after I had got on the outside of the guardhouse, it seemed very close to the barracks, and the town, somewhere.

Q. Close to the barracks and the town?—A. Yes, sir.

Q. Which was it nearest to?—A. I mean on the other side of the barracks, in the rear.

Q. Between the barracks and the town?—A. Yes, sir.

Q. That is, in the road?—A. That is the direction it sounded to me [indicating].

Q. That is, the road down by the barracks?—A. Yes, sir; it sounded in that direction.

Q. That is the first shooting you heard?—A. That is the first I heard, sir.

Q. It sounded like high-power guns, did it not?—A. I don't know what kind they were, sir.

Q. You have been in the Army six years?—A. Yes, sir.

Q. And you have heard high-power guns discharged?—A. Yes, sir; but you can't tell very well the difference between—

Q. Between?—A. Especially when one is kind of excited, sir.

Q. Did you have any idea whether those were high-power guns or not?—A. None whatever, sir.

Q. You could not tell whether they were shotguns, pistols, or rifles?—A. No, sir.

Q. What do you say?—A. No, sir; I could not tell.

Q. Now, this shooting you say seemed to be there in the road back of the barracks?—A. That is the way it sounded when I was first awakened, as I before stated, sir.

Q. Then the shooting went uptown?—A. Yes, sir; it sounded as if so.

Q. And it continued the same kind of shooting—that is, it was volleys?—A. No, sir; it sounded scattering to me, sir.

Q. Speak a little louder, now.—A. It sounded scattering to me—like scattering shots to me, sir, was the way it sounded in town after I heard the first firing.

Q. What was the first firing, volleys?—A. It sounded like that when I first awakened.

Q. And after that it was the same character of guns, was it not?—A. It seemed so, sir.

Q. Yes. Did you not hear any shots fired inside of the barracks?—A. Not that I know of, sir.

Q. But you heard the call, "Guard, No. 2?"—A. Yes, sir.

Q. And you heard no shots whatever inside of the barracks?—

A. Not that I know of, sir.

Q. How long did that shooting continue?—A. As near as I could judge it to be, at least ten or twelve minutes, more or less.

Q. Near that time, was it not?—A. Yes, sir.

Q. Well, now, did you make any inquiry as to who were doing the shooting?—A. That night, sir?

Q. Yes.—A. No, sir; I never thought about that, sir.

Q. You were in there and were placed as a sentinel and were ordered to lie down on the ground?—A. Yes, sir.

Q. And you heard all this shooting and never thought anything about who was doing the shooting?—A. Yes, sir; because I wasn't close enough to anybody to ask them or to have any conversation with them.

Q. Were you not close enough to the sergeant of the guard when he was there?—A. Yes, sir; the sergeant of the guard was there, but he had to deploy his men, and I was obeying orders at that time.

Q. You were obeying orders, and the guards came out and the others came out, and you formed?—A. Yes, sir.

Q. And were counted?—A. Yes, sir.

Q. How long did that take?—A. I don't know how long, sir.

Q. You heard the call to arms?—A. Yes, sir.

Q. You heard all that?—A. Yes, sir.

Q. And all this shooting was going on?—A. Yes, sir.

Q. And you never asked one of your comrades the cause of the shooting?—A. No, sir; not until it was over.

Q. I asked you that night, before you went and lay down, and you said you did not.—A. I understood you to say while it was going on.

Q. Oh! But you were not ordered to go back and lie down while it was going on. It was over at that time?—A. That is what I understood you to say, sir.

Q. After it was over, did you ask anyone?—A. After it was over I asked. But I understood you to say while it was going on.

Q. If you understood me that way, that is all right. Excuse me.—A. Yes, sir.

Q. After it was over, whom did you ask?—A. After it was all over I asked several. We were sitting there on the bench after we came off guard, and we were talking about who did it, and nobody seemed to know.

Q. Nobody there?—A. Nobody seemed to know, and then I retired to bed.

Q. What do you say?—A. I went to bed afterwards; after I asked and gained no information, I went to bed.

Q. What did you ask?—A. I asked them did they know what was all that racket going on, and some said they didn't know.

Q. They didn't know?—A. No, sir; they didn't seem to know; and the more I inquired the less information I received.

Q. The more you inquired the less information you received?—A. Yes, sir; as to what was going on, as no one knew.

Q. Who refused to give you information, if anyone?—A. Those that didn't know and couldn't say.

Q. Those who did not know? They could not very well give you information; no.—A. Yes, sir; and those were the only ones I asked.

Q. Did you ask the sergeant of the guard?—A. No, sir; I had nothing to say to him about it.

Q. Did you ask the corporals?—A. Two of the corporals were present at the time I was in conversation, Burdett and Franklin.

Q. What did Burdett say?—A. He didn't know what it was.

Q. What did Corporal Franklin say?—A. Neither one of those knew.

Q. Was there any other noncommissioned officer there?—A. Those are the only ones that I remember.

Q. Now, is not that a little strange that you should not ask? Did you ask whether it was the citizens doing the shooting?—A. Whether it was the citizens?

Q. Yes.—A. I didn't ask whether it was the citizens; I asked who was it?

Q. Did you ask whether it was the soldiers who had done the shooting?—A. No, sir; I didn't ask the question in that manner, sir.

Q. How did you ask it?—A. I asked who could it have been who did all that firing on the outside? I told them it sounded something like the Philippine Islands.

Q. Sounded like the Philippine Islands?—A. Yes, sir.

Q. Why did it sound like the Philippine Islands?—A. Because we used to be aroused nearly every night in that manner.

Q. It sounded like the Philippine Islands; like the guns the soldiers used?—A. No, sir; more like insurgents.

Q. What?—A. It sounded more like insurgents' arms.

Q. It sounded more like insurgents' arms?—A. Yes, sir.

Q. What kind of guns were those?—A. Such as Remingtons and Springfields—something like that.

Q. Now, you say that it sounded like Remingtons and Springfields?—A. As near as my belief; to the best of my belief.

Q. The best of your belief is what?—A. Is that they sounded in that manner.

Q. What manner?—A. As I stated, like the Philippine Islands, those Remingtons and such things.

Q. But my last question following your answer was, It sounded like Remingtons and Springfields?—A. Yes; that is the one you asked me.

Q. That is the answer you made?—A. Yes, sir.

Q. Is the Remington an army rifle?—A. I don't know whether they use them in the United States Army or not, sir.

Q. How many shots did you hear?—A. I could not tell exactly how many, sir.

Q. A hundred?—A. It was a great many, I don't know whether it was a hundred or not, sir.

Q. It sounded for ten or twelve minutes?—A. Something about that time, sir.

Q. As though a battle was going on—the shooting?—A. Yes, sir; quite a fusillade.

Q. Quite a fusillade?—A. Yes, sir.

Q. And all the conversation you and all the other members of the guard had there, as far as you know, is what you have narrated here?—A. Yes, sir; what I have told you, sir.

Q. The next day did you have any talk, making inquiries who it was—on the 14th?—A. Yes, sir; after I had come from the administration building, I heard them talking about it in the quarters.

Q. Talking; how talking? What were they saying?—A. Just wondering, like anyone else, like I aforesaid; wondering who did that, and that they would like to know.

Q. What else?—A. That is all I could find out about it, sir. They were wondering who did it.

Q. Did you not hear a word said as to who it was who possibly did the shooting—not as to the individuals, but as to whether it was soldiers or citizens?—A. No, sir.

Q. Or Mexicans, or somebody?—A. No, sir.

Q. You never heard a word?—A. I never heard anything like that at all.

Q. That never was discussed?—A. Not in my presence, sir.

Q. Never at all?—A. No, sir.

Q. Did you at any time afterwards discuss whether it was the citizens or soldiers who had done the shooting?—A. No, sir.

Q. Did you ever express an opinion as to which it was?—A. No, sir.

Q. Did you have one?—A. Not at that time, sir—who it was.

Q. When did you have an opinion?—A. You mean to express to the people?

Q. Yes.—A. And my comrades, on things like that?

Q. Yes.—A. I never was questioned about it after the 14th.

Q. What is that?—A. I never was questioned about it after the 14th at all, sir.

Q. And you never said anything more about it?—A. No, sir; until I was confined, and I wondered what I was confined for; and I asked and inquired then what I was confined about, and no one knew what I was confined for, sir.

Q. You heard no shots coming from the barracks?—A. Yes; there were some coming across the grounds there.

Q. Oh, you heard some?—A. Yes, sir.

Q. Where did you hear those?—A. When we were in ranks, and the guard was forming.

Q. Now, when you were in the ranks, and the guard was forming, you heard shots coming over your head?—A. Yes, sir.

Q. How many?—A. Three or four, there, came over.

Q. Well, did you say anything when those shots were coming over your head and the fusillade was going on; did you say anything to the men about being in danger of being hit there?—A. No, sir; because he deployed us as quickly as possible, sir.

Q. There was no remark made upon it at all?—A. No, sir; I didn't, sir.

Q. And there was none made to you?—A. No, sir.

Q. Did you not tell them that night that you heard those shots going over, and it must have been the citizens doing the shooting?—A. I don't remember speaking to anybody that night.

Q. Or the next day?—A. At that time; I don't know whether I remember saying anything at that time about it.

Q. You never said anything of the kind?—A. No, sir; I don't remember, unless I spoke it to Major Penrose.

By Senator OVERMAN:

Q. Did you go out on patrol that day, out in town?—A. No, sir; not that night.

Q. Was anybody of the guard taken out on patrol duty?—A. Yes, sir.

Q. You did not go?—A. No, sir.

Q. How many of your company were detailed with you for guard duty that night?—A. Four of us, on guard.

Q. Do you remember who they were?—A. I remember three. Yes, sir; I remember the four, now. There was Collier, Rogers, and myself, and Mitchell. I think he relieved a sick man, if I am not mistaken. I think he was supernumerary.

By Senator TALIAFERRO:

Q. What time were you struck over the head with the pistol?—A. The 5th of August.

Q. What time of day?—A. It was at night.

Q. What time of night?—A. It was between 8 and 9 o'clock, as near as I recall, sir.

Q. It was not as late as 9, you think?—A. No, sir; I don't think it was.

Q. You were arrested under the charge of having been one who did the shooting there at Brownsville?—A. I guess that I were, sir, but I never could find out. I asked Captain Macklin why I was arrested, and he didn't know, sir, when I was placed in confinement.

Q. You had an idea that you were arrested as being one of the parties who shot up the town?—A. That is all I thought about after I was arrested.

Q. Why did you think that?—A. By me being struck; that is why I thought I was placed there; that was the onliest thing I could think of why I was arrested.

Q. What time did you go to the hospital?—A. When, that night, sir?

Q. The night you were struck?—A. It may have been about 10 o'clock, sir; on or about that time.

Q. Where did you go immediately after you were struck?—A. I came back to the quarters. I came from the quarters first, then to Captain Macklin's quarters.

Q. You went to Captain Macklin's quarters before you went to the hospital?—A. Yes, sir.

Q. Did you stop anywhere in the town after you were struck before you went to your company's quarters?—A. No, sir.

Q. Captain Macklin told you to go to the hospital?—A. I don't remember whether he did or not, sir; but after leaving him I went to the hospital, sir.

Q. How long were you in the company's quarters?—A. I stayed there long enough to wash my face, sir, and the wound also.

Q. Then you went directly to Captain Macklin's quarters?—A. Yes, sir.

Q. How long were you there?—A. Long enough to explain what had occurred to me, sir, and to listen to what he had to say. I don't know how minutes that were, sir.

Q. So that it was over an hour after you were struck before you appeared at the hospital?—A. It was on or about that time, sir.

Q. And you felt that you had been struck without any cause or provocation?—A. Yes, sir.

Q. And yet you felt no resentment about it?—A. Not after I reported it to them and they said they would see after it, sir.

Q. You made no complaint at the hospital or to your comrades after your head was dressed?—A. No, sir; not after my head was dressed.

Q. You didn't complain of it at all?—A. I told of it at the hospital when I first went there that night, and then the next day Doctor Combe he asked me—

Q. I am speaking of the night you were hurt. The night you were struck is what I am speaking of, not the next day.—A. That night?

Q. Yes.—A. Yes, sir; after I returned from the hospital I was questioned about it.

Q. You made no complaint at the hospital of having been struck?—A. Yes, sir; I told the man that dressed my head that I had gotten struck.

Q. That you had gotten struck; but you made no complaint about it? You did not express any resentment?—A. No, sir.

Q. You thought that it was all right that you should be knocked down without any cause or provocation, and that you should have your head dressed and should make no complaint of it at all?—A. Yes, sir; after the officer to whom I reported it said that he would see about it, I thought I had gone through the right process then, sir.

Q. You did not denounce the man who struck you without cause?—A. I didn't denounce him?

Q. I say that you didn't denounce the man who had struck you without any cause?—A. No, sir; I didn't know who it was at that time.

Q. You could have denounced him without knowing who it was.—A. I told him that I had gotten struck by a man, but I didn't know who it was.

By Senator PETTUS:

Q. You did not know who it was?—A. That is what I told Captain Macklin. I said that I had been struck by a man. He asked me who it was, and I told him I didn't know who it was.

By Senator TALIAFERRO:

Q. You are perfectly sure that in passing those ladies on the street you did not even brush against them, even unintentionally?—A. No, sir; we had plenty of room to pass them, and I did not brush against them.

Q. You did not touch them at all?—A. No, sir.

Q. Did you get anything to drink after you were struck that night?—A. No, sir; I didn't go back in the town any more.

Q. You did not get anything as you were coming down to the quarters?—A. No, sir.

By Senator SCOTT:

Q. The regular channel, when you were hurt and went into the barracks, was to report to your noncommissioned officer as to the happening out in town, was it not?—A. It was not the regular thing, but I told him as I met him. He asked me, as I came into the bathroom, what was the matter, and I told him that I had been struck.

Q. But ordinarily, when anything of that kind happens, what is the regular channel to bring the matter up? You wanted redress. I suppose. Now, what was the regular channel? Was it not to tell of the incident to a noncommissioned officer and then to let him ask you what had happened, and how?—A. The man that was in charge of quarters, sir.

Q. Well, after you washed, you reported to him, and then you were sent to your captain?—A. Yes, sir.

Q. And next you were sent to Major Penrose?—A. No, sir; I did not go to him that night.

Q. But you went to the hospital?—A. Yes, sir.

Q. And were put on the sick list the next day, or that night?—A. The next day.

By Senator HEMENWAY:

Q. You expected your commissioned officers to look after this, and see that the man who struck you was punished. Is that right?—A. Yes, sir.

Q. Have you ever gone to school anywhere?—A. Sir?

Q. Did you ever go to school anywhere?—A. Yes, sir.

Q. Where?—A. At Greenville, S. C.

Q. How long were you in school there?—A. I don't know the number of years. I reached the sixth grade, sir.

Q. How is that?—A. I went as high as the sixth grade.

Q. The sixth grade?—A. Yes, sir.

Q. How long were you in the Philippines?—A. Two years and a half.

Q. Were you under fire there at any time?—A. Yes, sir.

Q. How many skirmishes or battles were you engaged in?—A. In the battle of San Augustine, the battle of Rio, the battle of San Luis and the battle of Negillion, and several other skirmishes that I have no record of, sir.

Q. You were under fire how many times, all told, in the Philippine Islands?—A. I could not really say, sir.

Q. Were you ever engaged in any fights, after you got in the Army, with citizens before this, or were you ever injured in any way by citizens before this?—A. No, sir.

Q. This is the first time you were ever in any trouble with any citizens after you were in the Army, near the post?—A. Yes, sir; that is my belief.

Q. This was the first time you were ever in any trouble after you enlisted in the Army, with citizens or near the post?—A. Yes, sir; that is my belief.

The CHAIRMAN. I do not want to keep reminding you, but it is just as easy for you to speak louder as it is for the Senators, and I insist that you speak louder.

A. Yes, sir.

By Senator OVERMAN:

Q. Why do you say "to my belief?"—A. These things happened quite a while ago.

Q. Can't you tell whether you ever had rows with the citizens or not, after you got into the Army?—A. Well, I had none, sir.

Q. Why did you say "to my belief?"—A. Well, I want to be positive about it, sir.

By Senator HEMENWAY:

Q. Then you state positively that you never had any quarrel or fight with any citizen near any army post at which you were stationed?—A. Not that I know of, sir.

Q. Let me ask you again, as nearly as you can tell, how many times have you been under fire while you were in the Army?—A. Eight or ten times, as nearly as I can remember, sir.

Q. And you were in four battles that were reported?—A. Yes, sir.

By Senator PETTUS:

Q. Did you get leave to go downtown that night?—A. The night that I was out, sir?

Q. The night that you were struck?—A. No, sir.

Q. How did you happen to go?—A. Well, we were just walking around. It did not require any pass unless—

Q. Just walking around?—A. Yes, sir.

Q. Was that against the rule or not?—A. It was, sir.

Q. How is that?—A. It was against the rule, I presume, sir.

By Senator HEMENWAY:

Q. It was the custom that you could go out without a pass, was it, or that the soldiers could go out into the town without passes?—A. Yes, sir.

By Senator FORAKER:

Q. You did not have to have a pass to go downtown, did you?—A. No, sir.

Q. If you were present in the barracks when there was a formation of the company, that was all that was required, was it not?—A. Yes, sir.

Q. You had to be there when there was a roll call, or where the company was required to turn out?—A. Yes, sir.

Q. But between times you could walk where you liked?—A. Yes, sir.

Q. It was not necessary for you to have a pass to go downtown, then, was it, at any time?—A. No, sir.

By Senator TALIAFERRO:

Q. But didn't you have to get leave from the officers to leave the barracks?—A. Not at that time we did not, unless we were going to old Mexico, and we could not make it over there and back in time, without having a pass.

Q. You were not required to stay in the barracks except when the officers gave you a pass or gave you leave to be absent?—A. No, sir. It has been the customary rule to go out between those times without any pass, around the town, so as to be present, as he has before said.

Q. You were only required to be there at roll calls?—A. Yes, sir.

Q. And guard mounts, and things of that sort?—A. Yes, sir.

Q. There is no rule requiring the soldiers to be within their quarters or within the camp limit where they have not gotten leave to go out?—A. There was not any published at that time, that is, sir.

Q. What is the rule in the Army?—A. I don't know, sir, exactly.

Q. Did you leave your quarters whenever you pleased in the Philippines, without leave to go?—A. Yes, sir; we did not use any passes there.

Q. Go anywhere you pleased, outside of the camp limits?—A. Yes, sir.

By Senator FORAKER:

Q. Just so you were present when you were required to do duty?—A. Yes, sir.

Senator WARNER. Ask him if they were not required to be in after check roll call.

By Senator FORAKER:

Q. You could not go out after check roll call at night?—A. No, sir; we were not allowed.

Q. You were not allowed to, you were expected to be in at check roll call and to remain in for the night?—A. Yes, sir.

Q. I see there is some difference in the testimony as to whether there was a fence at the place where you passed these ladies, and where you were struck. I understood you to testify that there was a fence there. Is your recollection distinct about that?—A. Yes, sir.

Q. There was a fence there?—A. Yes, sir.

Q. Do you know whether there was a vacant lot there? I see it stated by somebody that there was a vacant lot at that point.—A. We had passed the vacant lot, sir, already.

Q. A vacant lot on which a church stood?—A. We had passed the vacant lot, sir.

Q. You had passed the vacant lot?—A. Yes, sir.

Q. And you were down opposite the point where there was a fence?—A. Yes, sir.

By Senator OVERMAN:

Q. When he struck you, did you fall against the fence or in the street?—A. Fell down on the sidewalk.

By Senator FORAKER:

Q. I did not understand you to say that you fell against the fence?—A. No, sir; I was on the sidewalk.

Q. You fell right on the sidewalk?—A. Yes, sir.

Q. He struck you just as you were stepping back onto the sidewalk?—A. Yes, sir.

Q. After you had passed around the ladies?—A. Yes, sir.

Q. Did he say anything to you before he struck you?—A. No, sir.

Q. You did not know you were going to be hit?—A. No, sir.

Q. Until he hit you?—A. No, sir.

Senator WARNER. He has testified to all that.

By Senator FORAKER:

Q. In answer to Senator Overman you said you were in Allison's saloon every day. You mean every day after he opened up?—A. Sir?

Q. In answer to Senator Overman you testified that you were in Allison's saloon every day, after he opened up his place?—A. Yes, sir.

Q. That was Saturday, Sunday, and Monday?—A. Yes, sir.

Q. Was his saloon open on Sunday?—A. Yes, sir.

Q. And you were there, then, on that day?—A. Yes, sir.

Q. But you were not in any saloon in Brownsville during the whole time you were there?—A. No, sir.

Q. Never tried to go into any, I understood you?—A. No, sir.

Q. Do you remember what kind of a night that was, any circumstance that causes you to remember whether that was a dark night or not?—A. The night that I was struck?

Q. No; I mean the night of the shooting. But first, I will ask you, what was after dark when you were struck, as I understand you?—A. Yes, sir.

Q. I am speaking now about the night when the shooting was done, the night of the 13th. Do you remember any occurrence that you can recall that will enable us to judge how dark it was?—A. It was a very dark night, as near as I can remember, sir; very dark.

Q. I do not know whether it was from you or from somebody else, so excuse me if I ask you, did anybody approach the guardhouse while you were on duty, who was challenged, and made to come forward and disclose who he was?—A. Yes, sir.

Q. Who was that?—A. Sergeant Taliaferro was one, sir.

Q. Were you there when he appeared?—A. Yes, sir.

Q. How far away could you recognize him?—A. I could see him about as close as from here to that door there. There is a light there also at the guardhouse, on No. 1 post.

Q. That was because there was a light there?—A. Yes, sir.

Q. Was there anybody else? Do you remember Mrs. Matlock coming?—A. There was two women came also.

Q. Well?—A. And the quartermaster's clerk, he came there also, and was sent back to his quarters. Those are the only ones that I remember.

Q. Do you remember how near they got to you before you could recognize them?—A. No, sir; I only heard the challenge by other sentinels.

Q. They did not approach and pass you?—A. No, sir.

By Senator WARNER:

Q. You were asked something about whether, if you had done anything, you would admit it, or not. A man who informs upon another in the Army does not stand very well, does he?—A. Sir?

Q. A soldier who informs upon another soldier in the Army does not stand very well?—A. I don't know, sir, about that.

Q. You don't know how that is?—A. No, sir.

Q. Do you know whether it is customary for one soldier to give another away, to inform upon him?—A. No, sir; I guess that they would do so.

Q. You think they would, right along?—A. Yes, sir.

Q. No trouble about that at all?—A. I don't think there is, sir.

Q. Did you ever inform upon anyone?—A. No, sir; I had no cause to ever do so, sir.

Q. When you were at Fort Niobrara, did your command have any trouble with citizens?—A. I don't know, sir. I came there very late in 1905. They did not have any during the time I was there.

Q. But you had heard of it, had you?—A. Yes, sir; I had heard of it.

Q. You were out in town there?—A. Sir?

Q. You were out in town at Fort Niobrara?—A. Yes, sir.

Q. The saloon was how near the post there?—A. Well, sir, about a mile and a half.

Q. Who kept that saloon?—A. Charles Price.

Q. There was another, was there not, there?—A. And there was one about 2 miles.

Q. Kept by whom?—A. Stratton, I think, his name is.

Q. Well, there was another, was there not?—A. No; the next one is about 4 miles.

Q. And that was kept by whom?—A. Valentine, in the city.

Q. You knew where all those saloons were?—A. Yes, sir.

Q. Visited them?—A. Yes, sir.

By Senator FORAKER:

* Q. Did you mean to tell us a while ago that if you had been guilty you would swear falsely in order to protect yourself?—A. I understood them to say, if I had did this, would I have told it, or something like that.

Q. If you had done this would you tell it, or would you deny it, or do you know?—A. Oh, I don't guess that I would tell it, sir, if I did it.

Q. You would not tell on yourself, you think?—A. No, sir.

Q. Perhaps not. Have you sworn to any false statement whatever in connection with this matter?—A. No, sir.

Q. Now or at any other time?—A. No, sir.

TESTIMONY OF FRANK J. LIPSCOMB (COLORED).

FRANK J. LIPSCOMB, colored, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please give us your full name.—A. Frank J. Lipscomb.

Q. Where do you live now?—A. In Bessemer, Ala., sir.

Q. Has that been your home heretofore?—A. Yes, sir.

Q. How are you employed there, if at all?—A. I am employed by the Woodward Iron Company, in their ore mine.

Q. In their coal mine?—A. Ore mine.

Q. How long have you been working there?—A. Well, I worked there ever since I was large enough to work; about eight years, I think.

Q. Were you a member of the Twenty-fifth Infantry while it was at Brownsville last year?—A. Yes, sir.

Q. What company did you belong to?—A. C Company.

Q. How long had you been in the service?—A. Two years and four months, I think.

Q. Then you were discharged without honor, were you?—A. Yes sir.

The CHAIRMAN. I want to say to the witness that Senators ask their questions in a loud voice so everybody can hear, and I want you to reply in a good, loud, round tone, so we can hear.

Senator FORAKER. Speak out so we can hear. I want to put in evidence the record of this witness as furnished by the War Department, and as found at page 262 of Senate Document 155. It is short and I will read it:

FRANK J. LIPSCOMB.

Enlisted July 16, 1904; was discharged without honor as a private of Company C, Twenty-fifth Infantry, November 23, 1906.

Q. You were serving your first enlistment?—A. Yes, sir.

Q. When that shooting affray occurred at Brownsville, Tex.?—A. Yes, sir.

Q. You were there with your company at that time, were you?—A. Yes, sir.

Q. You said you had been employed for eight years at the place where you are now working?—A. Yes, sir.

Q. That is in somebody's ore mine at Bessemer, Ala.?—A. Yes, sir.

Q. You were working there, then, before you enlisted?—A. Yes, sir.

Q. And after you were discharged you went back there?—A. Yes, sir.

Q. And you have been working there ever since?—A. Yes, sir.

Q. And you are under employment there now, are you?—A. Yes, sir.

Q. Were you in company with Private James W. Newton, of the same company that you belonged to—Company C of the Twenty-fifth Infantry—when he had some trouble with a customs officer by the name of Tate, in Brownsville?—A. Yes, sir; I was.

Q. Now, tell us, if you can, the date of that occurrence?—A. Well, I don't just remember the date now.

Q. Can you tell us what day of the week it was?—A. No, sir; I don't remember that now.

Q. Can you tell us whether it was on Sunday or not?—A. No, sir; I don't think it was on Sunday.

Q. You don't know whether it was Sunday or not?—A. No, sir.

Senator WARNER. He does not think it was, he says.

By Senator FORAKER:

Q. Can you tell us what time in the day it was?—A. It was about 9 o'clock in the night.

Q. About 9 o'clock in the night, whatever night it was?—A. Yes, sir.

Q. It was after dark, was it?—A. Yes, sir.

Q. Now proceed and tell us in your own way what he and you were doing, and what this occurrence was—how it all came about.—A. Well, we were walking down the street, and we came to where there was some ladies standing on the sidewalk, and when we got to where they was, why, we turned out on the inside of the sidewalk and as we got opposite this man he knocked Newton down, and I walked on down the street by him, and when he turned to me, why, I had passed him, and I just went on down the street; and that is all there was to it.

Q. Now, Lipscomb, when you saw Tate knock your comrade, Newton, down, did you leave there in a walk or did you run, or how?

A. I walked right straight on down the street, but I did not run.

Q. You went right on?—A. Yes, sir.

Q. You did not stop to have any controversy with him?—A. No, sir.

Q. Did you see him strike Newton?—A. Yes, sir.

Q. What did he strike him with?—A. With a six-shooter.

Q. Did he say anything to Newton before he struck him?—A. No, sir; I did not hear him say anything.

Q. Now, did you or Newton, either one, instead of going around the ladies, as you describe, push your way through them as they stood on the sidewalk?—A. No, sir; we did not touch them at all.

Q. Did either one of you brush against them?—A. No, sir.

Q. Did either one of you jostle them in any way?—A. No, sir.

Q. Intentionally or otherwise?—A. No, sir; not at all.

Q. Was there plenty of room to step around them?—A. Yes, sir.

Q. Did you know this man was going to strike Newton until he did strike him?—A. No, sir; I did not.

Q. Did you hear him say anything to Newton after he knocked him down?—A. No, sir.

Q. Mr. Tate has testified in this case—I will not stop to read the exact language unless Senator Warner prefers it—that he struck Newton because when you and Newton came up Newton pushed his way through the crowd of ladies who were standing there, jostling his wife among others. Is that statement true or not?—A. No, sir; I don't think Newton struck either one of them.

Q. You say you don't think. Do you know whether he did or not?—A. No, sir.

Q. I mean do you know whether he went through the ladies or went around them?—A. He went around them—he went around them.

Q. You are positive he did not go through them?—A. No, sir; he did not go between them.

Q. Through the crowd?—A. No, sir.

Q. Are you positive he did not jostle any of them?—A. No, sir—yes, sir; I am positive he did not touch any one of them.

Q. That he did not do it?—A. No, sir.

By Senator OVERMAN:

Q. Did you go through them single file or together?—A. We went through them single file.

Q. Were you ahead of Newton or behind?—A. I was behind Newton, sir; Newton was in front.

By Senator FORAKER:

Q. What were you and Newton doing downtown that night?

A. Why, he was going down to a friend of his that lived down near the depot, and he asked me to go with him.

Q. You were simply accompanying him?—A. Yes, sir.

Q. Did you have any arms?—A. No, sir.

Q. Had you been drinking?—A. No, sir; we had not been drinking

all.

Q. Had not been in any saloon that day?—A. No, sir.

Q. Had you frequent the saloons of Brownsville any?—A. No, sir.

. D.

Q. Were you in any of them at any time?—A. No, sir; I never was none of them.

Q. Never in any of them?—A. No, sir.

Q. Now, after this man Newton was struck and knocked down, what did you and Newton do? You went on. Did he join you again or not?—A. No, sir; when I seen him again we were back at the barracks.

Q. You did what?—A. We went back to the barracks before I saw him again.

Q. Did you run right off and leave him there wounded?—A. Yes, sir; I went.

Senator WARNER. He said he walked.

By Senator FORAKER:

Q. Did you go away from him and leave him all alone?—A. Yes, sir.

Q. Just walked away?—A. Yes, sir; walked right on down the street to the next corner, and went on around to the barracks.

Q. What street were you on when this occurred?—A. Well, I don't know the name of the street. I did not stay there long enough to learn.

Q. When you turned off that street, did you turn to the right or to the left?—A. Turned to the right, sir.

Q. You turned to the right and went where?—A. Went down to the next street and came right on back up to the barracks.

Q. Up to the next street. If you were on Elizabeth street, you went up then to Washington, I suppose, if that is the next street to the right?—A. Yes, sir.

Q. There is a map at the left of you on the wall. Let me call your attention to what that shows [referring to the map]. This is supposed to be the line of barracks; there is the gate that goes out onto the main street, going downtown, or uptown, whichever you call it. This is Elizabeth street. Is that the street you were on, to start with?—A. Yes, sir.

Q. The street which you entered upon when you went out of the gate?—A. Yes, sir.

Q. And you were several blocks away from the fort, were you?—A. Yes, sir.

Q. Had you passed the post-office yet?—A. Yes, sir.

Q. You had gone by that, and then after the occurrence you went to next street beyond and turned to the right, did you?—A. Yes, sir.

You went one square, onto the next street?—A. Yes, sir.

That would be up to Washington street, I suppose?—A. Yes,

And then you came back to the barracks by way of Washington?—A. Yes, sir; came right to the barracks.

And came back alone?—A. Yes, sir.

You did not see Newton at all?—A. No, sir; not until I got

Q. Did you walk all the way or run?—A. I walked all the way.

Q. You walked all the way?—A. Yes, sir.

Q. Walked pretty fast, or otherwise?—A. Walked; no, sir; just taken my time.

Q. Did you or not have any uneasiness about Newton, how he would get back?—A. Why, yes; I did; but he was back to the barracks by the time I was.

Q. He was back by the time you were. Didn't you feel it was your duty to look after him? You must have known he was hurt, didn't you?—A. I did not think I could do him any good.

Q. You did not think you could do him any good?—A. Only by reporting it. If I had got back to the barracks in time enough I could report it.

Q. You intended to?—A. If I got back in time, but he was back there as soon as I was.

Q. To whom were you going to make report?—A. To the company commander.

Q. That was who?—A. Captain Macklin.

Q. But when you got back there Newton was there?—A. Yes, sir; me and him got there just about the same time.

Q. And what occurred then?—A. Well, he went and reported it himself.

Q. And did you go with him to report it?—A. No, sir; I did not go to the captain until the next morning.

Q. You went the next morning to see Captain Macklin?—A. Yes, sir.

Q. How did you happen to go to see him the next morning?—A. Well, he sent for me.

Q. He sent for you, did he?—A. Yes, sir.

Q. And what did he want to know?—A. Well, he just asked me how it was, and I stated to him just the same as I did here.

Q. And then did you go with Newton anywhere that night, after you saw him at the barracks?—A. No, sir.

Q. You did not go to the hospital with him?—A. No, sir.

Q. You don't know what occurred there?—A. No, sir; I don't.

Q. Did you see Major Penrose in regard to the matter at any time?—A. Yes, sir; the next day.

Q. Did he send for you?—A. Yes, sir.

Q. Then you told him all about it, did you?—A. Yes, sir.

Q. Did he ask you what had occurred, or what did he ask you?—A. Yes, sir; he asked me what had occurred, and I told him just like I have told you all.

Q. Now, where were you the night that the shooting occurred, August 13?—A. I was in the quarters, sir.

Q. In C Company barracks, you mean?—A. Yes, sir.

Q. Upstairs or downstairs?—A. Upstairs, sir.

Q. Well, were you asleep or awake when the firing commenced?—A. I was asleep, sir.

Q. What awakened you?—A. I was waked by the sound of "to arms" sounding.

Q. The call to arms sounding?—A. Yes, sir.

Q. Was there firing going on when you got awake?—A. Yes, sir.

Q. What did you do when you got awake?—A. I hurried and dressed and went downstairs.

Q. Did you get a gun or not?—A. I did not get my gun the first time I went downstairs.

Q. Why didn't you get your gun?—A. The gun racks were locked.

Q. It was locked?—A. Yes, sir.

Q. Did you afterwards get your gun; and if so, when?—A. Yes, sir; after I came back the gun racks were open, and I got my gun.

Q. You ran downstairs without any gun, did you?—A. Yes, sir.

Q. And then you ran back upstairs?—A. Yes, sir.

Q. And did you find the gun rack open?—A. Yes, sir.

Q. How was it opened, do you know?—A. It was cut open with an ax, I think.

Q. Did you get your own gun?—A. Yes, sir.

Q. Or somebody's else gun?—A. I got my own gun.

Q. How do you know you got your own gun?—A. Well, I know it by the number; I had the card.

Q. You knew where your gun stood in the gun rack?—A. Yes, sir.

Q. And you got your hands on your own gun?—A. Yes, sir; I got my own gun again.

Q. Do you know whether your comrades of your company got their own guns or not?—A. All of them did not get their own.

Q. All of them did not. Some of them got other guns, did they?—A. Yes, sir.

Q. But you had your own?—A. Yes, sir.

Q. Well, then, you were with your company from that time on that night?—A. Yes, sir; I was with my company from that time on until morning.

Q. Did you have anything to do with this shooting up of Brownsville?—A. No, sir.

Q. Do you know anybody who did?—A. No, sir; I do not.

Q. In your own company or any other company?—A. No, sir; I do not.

Q. Did you make any threats or hear any of the men make any threats?—A. No, sir.

Q. To revenge themselves upon the people of Brownsville for this attack on Newton?—A. No, sir; I did not.

Q. Did you anticipate any such occurrence as that of the night of August 13?—A. No, sir; I did not.

Q. You did not know anybody was going to shoot up the town?—A. No, sir.

Q. You had never heard such a thing suggested?—A. No, sir.

Q. If any conspiracy was organized among the men of your company or the men of that battalion to shoot up the town, you did not hear of it?—A. No, sir; I did not.

Q. Have you at any time concealed any knowledge of what occurred that night from anybody?—A. No, sir; I have not.

Q. You have been willing and ready at all times to tell all you knew?—A. Yes, sir.

Q. Do you now know or have any reason to suspect who did that shooting?—A. No, sir; I have not; none at all.

Q. Do you know of anything that causes you to have a suspicion that anybody in your company had anything to do with it?—A. No, sir.

By Senator WARNER:

Q. Mr. Tate said nothing there when he struck Newton?—A. I did not hear him say anything.

Q. You were right there?—A. Yes, sir; I passed by him as soon as he struck him.

Q. But you were just behind Newton?—A. Yes, sir.

Q. So that Newton was how far in front of you when he was struck—a step or two?—A. About a couple of steps—as near as—

Q. A couple of steps?—A. Yes, sir.

Q. And then you walked on?—A. Yes, sir.

Q. Going away from the barracks; that is, down the street?—A. Yes, sir.

Q. And you did not hear a word said by Tate?—A. No, sir.

Q. To Newton?—A. No, sir.

Q. Before or after?—A. No, sir.

Q. And Newton got right up and walked away as though he was not much hurt, didn't he?—A. I don't know, sir. I left Newton there, sir.

Q. I find in your affidavit, your statement on page 134 of Senate Document 155, the following questions and answers, Mr. Lipscomb: I don't know whether they are correct or not:

Q. What did the man say to him?—A. I never heard him say anything.

Q. Did Newton get up again?—A. Yes, sir; he got up.

Q. What did he do?—A. Not anything.

Q. Where did he go?—A. He went on down the street and I turned the corner. After I turned the corner I did not see him any more until we got to the quarters.

Q. Did he go towards town or towards the barracks after he was hit?—A. He went on downtown from the barracks.

Q. Did he appear to be hurt much?—A. No, sir; he didn't appear to be.

Is that as you remember it, now, Mr. Lipscomb?—A. No, sir; I don't remember saying that.

Q. What is that?—A. Not as I remember, I don't remember that.

Q. You heard what I read to you, Mr. Lipscomb?—A. Yes, sir.

Q. Is that correct?—A. Well, I don't know, sir. I don't remember it that way. I told it just like it was a while ago.

Q. Yes; but I want you to understand. I am simply reading here what purports to have been a statement made by yourself in an investigation down there. You remember when Colonel Lovering was down there. It is reported here. The fact is, Mr. Lipscomb, letting that go, you did go on uptown, as we call it, or this way, from the barracks, until you got to the cross street, and then you turned up to the right, and Mr. Newton went on, going uptown, and you left him when you turned to the right?—A. No, sir. I left him when the man knocked him down. I went on down the street.

Q. And left him lying there?—A. Yes, sir.

Q. Then the question appears here:

Q. Did the man that knocked Newton down say anything to either of you?—A. No, sir; he did not say anything to me.

A. No, sir.

Q. I will leave that. It will show for itself. This shooting that you heard, was it before or after the call to arms, when you were awakened?—A. I was awakened at the time the sound to arms went.

Q. At the time they were sounding the call to arms?—A. Yes, sir.

Q. And where did the shooting seem to be then, Mr. Lipscomb?—A. It seemed like it was in town, from where I was.

Q. Well, near the barracks?—A. Yes, sir; it seemed like it was near the barracks, right across the fence.

Q. Right across the barracks fence?—A. Yes, sir.

Q. That sounded like high-power guns, didn't it, Mr. Lipscomb?—
A. Yes, sir; it sounded like it was large-caliber guns.

Q. You have heard the army guns frequently? The sound was the same was it not?—A. No, sir; it sounded like it was heavier than those.

Q. Heavier?—A. Yes, sir; had a heavier sound.

Q. Did you look out to see where it was?—A. No, sir.

Q. And then after the first shooting it seemed to go uptown, did it, the parties doing the shooting—away from the barracks?—A. No, sir; I don't remember whether it went uptown or not. All of it sounded like it was all about in the same place to me.

Q. So that you may understand the question before you answer it, there is that road between the barracks and the town there. Calling that the barracks road, you know what I mean, don't you?—A. Yes, sir.

Q. Running up by where Allison's saloon was?—A. Yes, sir.

Q. Now, with reference to that road, where did the shooting seem to be?—A. Well, it seemed like it was right near that road there.

Q. What do you say?—A. It seemed like it was about in that road.

Q. And back of which barracks?—A. It looked like it was between B Company and D Company barracks.

Q. D barracks is the one nearest the river?—A. Yes, sir.

Q. And that shooting that you heard seemed to be right in the road down there?—A. Yes, sir.

Q. About how many shots did you hear in there?—A. I don't remember how many shots there were.

Q. Quite a number?—A. Yes, sir.

Q. And did you pay attention to the shooting after that?—A. No, sir.

Q. The call to arms was sounded when you were awakened? You got up and dressed and went downstairs?—A. Yes, sir.

Q. Did you look for your gun before you went downstairs?—
A. Yes, sir.

Q. Who was the officer in charge of quarters?—A. Sergeant Brawner.

Q. Did you look for him?—A. Yes, sir.

Q. Did you find him?—A. No, sir.

Q. Did you see him that night?—A. Yes, sir; I seen him after.

Q. How long afterwards?—A. Well, it was not very long afterwards.

Q. Was it after the shooting was all over; and if so, how long?—
A. Oh, well, just about four or five minutes, I reckon, after the shooting was over.

Q. You saw him?—A. Yes, sir.

Q. Where did he come from?—A. I think he came out of the orderly room, the office; I am not certain.

Q. You think he came out where?—A. Of the orderly room; the office. We call it the orderly room.

Q. That is downstairs?—A. That is downstairs.

Q. Did you ask him where he had been?—A. No, sir; I did not.

Q. Did you tell him you had had to break open the gun racks to get the guns?—A. No, sir.

Q. Did he say where he had been?—A. No, sir; I did not hear him say.

Q. Who was with him?—A. Him and Sergeant Harley was together when I seen him.

Q. Do you know where they had come from?—A. No, sir; I don't know really where they came from.

Q. And where were they standing when you saw them?—A. They were coming through the library when I seen them, from towards the orderly room.

Q. Through the library?—A. Yes, sir; the library is the hall just where you come out of the orderly room, you come right out into the library.

Q. That is the first time I have heard of the library. Is the library in the hall?—A. Yes, sir; it is just the hall.

Q. The books are in the hall?—A. Yes, sir; and papers.

Q. And that hall leads from the outside, does it not?—A. No, sir; it leads from the inside of the orderly room.

Q. That hall?—A. Yes, sir.

Q. Then there is a cross hall that it strikes, does it?—A. Yes, sir.

By Senator TALIAFERRO:

Q. When the call to arms was sounded, was the firing still going on?—A. Yes, sir.

Q. Did you have any idea what it meant?—A. Sir?

Q. Did you have an idea what it meant?—A. What, the call to arms meant?

Q. The firing?—A. No; I did not.

Q. Did you think the fort was being attacked?—A. No, sir; I did not know what it meant.

By Senator WARNER:

Q. Just one question more. Did you ever talk with any of them afterwards as to who did this shooting?—A. No, sir.

Q. Did you ever hear any of the soldiers talk as to who did the shooting?—A. No, sir.

Q. Never heard it discussed at all?—A. No, sir.

Q. Yet you were there as a member of Company C?—A. Yes, sir.

Q. You were not arrested, were you, Mr. Lipscomb?—A. No, sir.

Q. So you were there with the company until they left Brownsville?—A. Yes, sir.

Q. Mixing with them every day and meeting with them?—A. Yes, sir.

Q. And you never heard this discussed at all?—A. No, sir.

Q. Did you ever hear the Newton incident discussed—the striking of Newton?—A. No, sir.

Q. You heard of the alleged assault upon Mrs. Evans, didn't you?—A. Mrs. who?

Q. Mrs. Evans?—A. I don't remember that name.

Q. Well, the woman that was alleged to have been pulled off her horse, and somebody charged that it was a soldier that did it—A. Yes, sir; I heard some one speak about it.

Q. Did you hear of that before the shooting up of the town?—A. Yes, sir; I think I did.

Q. Where was that discussed?—A. I think I heard it at the guardhouse; I was on guard.

Q. Did you hear it given as the reason why the men were all compelled to come in at 8 o'clock that night, the 13th?—A. Yes, sir.

Q. All the passes taken up?—A. Yes, sir.

Q. That was discussed that night, was it?—A. Yes, sir.

Q. What was said about it, Mr. Lipscomb?—A. Well, there was nothing said about it; just said everybody had to be in.

Q. And they said the Evans incident—the assault upon Mrs. Evans—was the cause of it?—A. Yes, sir.

Q. Did the soldiers seem to be pleased that they were going to be kept in that night?—A. Yes, sir; it seemed so.

Q. They seemed to like it?—A. Yes, sir; it seemed so.

Q. When Newton was struck you left him there. Did not some of your comrades ask you how it was that Newton got struck?—A. No, sir; they did not ask me.

Q. Did you ever tell anybody?—A. No, sir; never did have any talk about it, only with the captain and the major.

Q. None of them ever asked why it was that you went away and left him there?—A. No, sir.

Q. You never spoke of it to anyone of your comrades?—A. No, sir; only the major and the captain.

Q. They were your officers?—A. Yes, sir.

Q. Never spoke of it in barracks at all?—A. No, sir.

Q. One way or the other?—A. No, sir.

Q. And never spoke of this shooting up of the town in the barracks at all, one way or the other?—No, sir; I did not know anything about it.

Q. Well, afterwards, as to who did it?—A. Who did it?

Q. As to who did it; yes.—A. No, sir.

Q. Whether it was the soldiers or citizens?—A. No, sir.

Q. And you were on guard that night?—A. No, sir; the night before.

Q. Oh, yes; you are correct. That was the night of the 12th—the night of the Evans incident?—A. Yes, sir.

Q. That is correct, Mr. Lipscomb. But none of these facts were ever talked about at all among you?—A. No, sir.

Q. Did you hear of this man Reed being pushed off of the gang plank at the ferryboat, into the mud or water there by the river?—A. Yes, sir; I heard of it. I think I was on guard that night, at the time.

Q. Did you ever hear the boys talk about that in quarters?—A. No, sir; I think it was reported at the guardhouse that this man got shoved overboard, or something.

Q. You never heard it talked of at all in the barracks?—A. No, sir.

Q. None of these things?—A. No, sir.

By Senator TALIAFERRO:

Q. When the call to arms was sounded, was it not your duty to take your gun downstairs?—A. Yes, sir.

Q. And you did not take it down because you could not get it out of the rack—is that the reason?—A. Yes, sir.

Q. Who broke open the rack?—A. I don't know, sir, who broke it open.

Q. You did not think the fort was being attacked, that the barracks were being fired upon, when you heard this shooting and the call to arms?—A. No, sir; I did not know what it meant.

Q. Didn't you feel any uneasiness in going downstairs without your gun, when this shooting was in the road right by the barracks?—

A. Yes, sir; I was a little uneasy, but I did not know what it meant.

Q. You went right down without it?—A. I went downstairs; yes, sir.

Q. Did you go outside the barracks?—A. No, sir.

Q. How long were you downstairs before you went back?—A. Just long enough to turn around and go back.

Q. Who broke open the rack?—A. I don't know, sir.

Q. It was intact, all in order, when you went downstairs?—A. Yes, sir; it was all right.

Q. You tried to get your gun before you went down?—A. Yes, sir.

Q. You saw it was all right then?—A. Yes, sir.

Q. You hurried downstairs and hurried right back, and it was broken open?—A. Yes, sir.

Q. You don't know who did it?—A. No, sir.

Q. Did not see anybody with an ax?—A. No, sir.

Q. You got your gun then and went downstairs?—A. Yes, sir.

By Senator FORAKER:

Q. Did you see Sergeant Brawner, who was in charge of quarters, about the time the gun racks were broken open?—A. I don't remember whether it was at the time the gun racks were broken open or not.

Q. Where were you when you saw him and Sergeant Harley?—A. I was coming downstairs.

Q. That is the first time you came down?—A. No, sir; the second time.

Q. Well, the firing was not over then, was it?—A. Yes, sir; the firing was over when we got out.

Q. When you got out with your gun the firing was over?—A. Yes, sir.

Q. How far were you from the street on which you turned to the right, to go to Washington street, when Newton was struck?—

A. Well, I don't remember; it was not very far.

Q. Were you or not near to the corner?—A. I was not very far from the corner.

Q. Was that or not the nearest way, apparently, out of the trouble?—A. Yes, sir; the nearest corner, the first corner I got to.

(At 4 o'clock and 12 minutes p. m. the committee adjourned until Tuesday, June 11, 1907, at 10 o'clock and 30 minutes a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, June 11, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, and Overman.

TESTIMONY OF ALEXANDER J. LEVIE—Recalled.

By Senator FORAKER:

Q. Mr. Levie, you testified yesterday. You told me outside the committee room just now that you saw in the paper some statement attributed to you which was not correct. Will you tell me what it was?—A. It was as to the inspection of those rifles.

Q. Just what was the statement?—A. The paper reported me as stating that the rifles would stand inspection.

Q. Your statement was that they would not stand inspection?—A. Yes, sir; that they would not stand inspection under any officer under whom I had served.

Q. At your request I have looked at the record, so that you may correct that if you want to, and I find that at page 2944 you are reported as saying, after you had removed the breech bolt from one gun and sighted through the barrel, "This rifle would not pass inspection under any officer in the service."—A. No, sir.

Q. What was your statement?—A. Under any officer under whom I had served.

Q. Yes. I so stated at the time, "under any officer under whom you had served." The next question is:

Q. That rifle would not pass inspection under any officer in the service?

I want to state that what I said was, "under any officer under whom the witness had ever served," or words to that effect.

Then, on the next page I find that after you had looked at the next rifle you were asked these questions and gave these answers:

Q. Lay that gun aside and take this other one.—A. (After examining second gun.) This one is equally as bad.

Q. That is equally as bad?—A. Yes, sir.

Q. Would that pass inspection under any officer under whom you have ever served?—A. This one [indicating]?

Q. Yes.—A. No, sir.

That is correct, is it?—A. Yes, sir.

Q. Now, Sergeant, I want to ask you another question on my own account. Going back, I understood you to say yesterday that after you had cleaned a rifle you followed it up for a day or two to see whether it fouled up.—A. Yes, sir.

Q. You do that?—A. Yes, sir.

By Senator WARNER:

Q. State whether or not if a rifle be thoroughly cleaned it will foul up.—A. No, sir; after I get mine clean—

Q. Did you not state yesterday, in substance, that you never had been able to get your gun so clean that it would not foul?—A. That is on the first day's cleaning?

Q. Any cleaning?—A. I didn't put it that way. I didn't mean to put it that way. On the first cleaning.

Q. The record will show just what you stated. Now, Mr. Levie, as to this correction you make, the record reads as follows:

Q. Now, will you kindly look at these guns and tell us whether they are clean or not? Look at both of them; see if you can get the light through them.—A. (Removing breech bolt from one gun and sighting through barrel. This one will not pass inspection under any officer in the service.

A. That is what I wish corrected.

Q. That is as reported.—A. That is what I wish corrected.

Q. Yes. The next question and answer are:

Q. That rifle would not pass inspection under any officer in the service. Lay that gun aside and take the other one.—A. (After examining second gun. This one is equally as bad.

A. Yes, sir.

Senator WARNER. That is all.

By Senator FORAKER:

Q. I will ask you this question: If a rifle be dirty from firing—stained—would that be disclosed by drawing a white rag through the rifle?—A. I do not quite understand your question, Senator.

Q. If a rifle be dirty from firing would that be disclosed by drawing a white rag through the bore of the rifle?—A. It would not remove the powder stains.

Q. No; but I mean would the powder stains show on the white rag?—A. Yes, sir.

Q. I would like, then, for you to take that gun that was cleaned and draw a white rag through it with the cleaning rod. Just make that experiment as to that rifle.

(The gun referred to and a brass cleaning rod and rag were here handed to the witness.)

By Senator WARNER:

Q. What is the number of that gun?—A. 198263.

(The witness here ran the rod, with a rag upon it, in at the breech of the gun and drew it back again out of the breech.)

By Senator FORAKER:

Q. What is the result?—A. (After examining rag.) Apparently there is both powder stain and rust.

By Senator OVERMAN:

Q. Which are the powder stains?—A. This is powder stain [indicating on rag] and this is the rust [indicating].

Q. That is not a very dirty gun, though?—A. Yes, sir.

Q. Is that what you call a dirty gun?—A. Yes, sir.

By Senator FORAKER:

Q. Would a gun in the condition indicated by the stains on that rag pass a rigid inspection under any officer under whom you ever served?—A. I state that it would not pass inspection.

By Senator OVERMAN:

Q. Would you say that that gun had not been cleaned at all?—A. No, I would not.

Q. How about that other gun?—A. I would not go on evidence to state that I could tell a gun that hadn't been cleaned.

Q. How is that?—A. I would not state that I could identify a gun, I would not attempt to go on record as saying that I could identify a gun that no attempt had been made to clean from one that had been cleaned.

Q. Would not any gun that had been cleaned after a time show rust?—A. If very thoroughly cleaned they will not, sir.

Q. Ordinary cleaning?—A. That was my experience; for three or four days I had to clean mine every day.

Q. But to pass an ordinary inspection; I suppose a gun would pass an ordinary inspection within three or four days after that. Would not any of those guns that had passed an ordinary inspection show a little more rust or powder stain?—A. If they hadn't been looked at, yes, sir.

By Senator FORAKER:

Q. If they had not been what?—A. If they had not been looked at and cleaned.

By Senator OVERMAN:

Q. That is your experience?—A. Yes, sir.

By Senator FORAKER:

Q. But if they had been thoroughly cleaned they would not?—A. I wish to state, sir, that I never had any experience that I could get a gun clean on the first cleaning, thoroughly clean, but I have been able to get it thoroughly clean by looking at it and cleaning it again, as I have stated.

By Senator OVERMAN:

Q. You never have been able to do that?—A. No, sir; I never have been able to do that.

Q. What you mean by cleaning a gun thoroughly is to clean the gun and then to clean it again, and then to clean it the third time?—A. Yes, sir.

Q. And then to clean it even the fourth time?—A. Yes, sir.

Q. I understand you to say, then, that although a gun may have been cleaned and passed an ordinary inspection, three or four days afterwards it would show more or less powder stains and rust?—A. Yes, sir.

Senator OVERMAN. Very well. I do not want to ask you any more questions.

By Senator SCOTT:

Q. Sergeant, it would not do that if you had done as the ordinary soldier does, after you had cleaned it run a rag through it with oil on it?—A. This powder I find the most difficult that I have ever undertaken to get out of a gun. When I would think I had my rifle thoroughly cleaned, and when I had worked on it I would conscientiously say sometimes as long as a half an hour, and even put the pomade to it and polished it out, I have found that I would have to do that for several days to get it so that it would not rust.

Q. That is, to polish it with this oil?—A. With this pomade; yes, sir.

Senator FORAKER. That is all.

Senator WARNER. That is all.

(Witness excused.)

TESTIMONY OF MAJ. CHARLES W. PENROSE, U. S. ARMY—Recalled.

The CHAIRMAN. Major, you will consider the oath that you formerly took covers your testimony now.

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. Major, since you were on the stand Capt. William Kelly, of Brownsville, has testified before this committee. I call your attention to what he said at pages 2548, 2549, and 2550. I will read you what he said. I will just read all of this as a predicate to the examination that I want to make of you on this subject:

Q. Did you go up to the garrison during that time?

That is, while the troops were there.

Q. Did you go up to the garrison during that time?—A. Only once.

Q. When was that?—A. I think it was on the Saturday evening before.

Q. Before the shooting affray?—A. Before the shooting; yes, sir.

Q. What was going on when you were there?—A. Nothing. My son was with me, and we went to call on the commanding officer, Major Penrose.

Q. Your son was with you?—A. Yes, sir.

Q. Was he at home at the time?—A. Yes, sir.

Q. Was he there at the time of the shooting affray?—A. No, sir; he left Monday morning.

Q. Just before it happened?—A. Just before it happened.

Q. You met Major Penrose?—A. Yes, sir; we met him on the walk.

Q. Did your son know him?—A. Yes, sir; I think he did. Yes, he did; because he introduced me.

Q. You had not met Major Penrose?—A. Not until then.

Q. That was the first you saw of Major Penrose?—A. That was the first I saw of him.

Q. That was on Saturday?—A. Yes, sir.

Q. That was pay day, also, was it not?—A. I believe it was; I am not sure about that.

Q. Did you see the troops under arms at all during the time they were there?—A. No, sir.

Q. You did not see any parade?—A. There was no parade.

Q. What time was this?—A. In the afternoon, between 3 and 4 o'clock, I should judge.

Q. Did you see any of the soldiers around about the quarters, when you were there?—A. In passing into the fort you passed by the flank, between two of the barracks; that is, you passed in at the gate between B and D barracks.

Q. D barracks is below, towards the river?—A. Yes. You passed in there and there were always a number of the men loafing around the quarters on either side. There were a number of them that day, I remember. I remember that my son said to me, "Penrose can not keep those fellows in much order." There were no two men dressed alike.

Q. They were not on duty of any kind?—A. Not any.

Q. But they were simply about the barracks?—A. Yes, sir; they were simply about the barracks.

Senator FORAKER. Now, I pass over to the next page, omitting all on that page, and going to the top of page 2550, as follows:

Q. You did not see any of them misbehaving?—A. No, sir.

Q. The only thing you took exception to was that they were unsoldierly?—A. An unsoldierly looking lot of niggers.

Q. They did not salute their officers with the military air which you thought they should?—A. No.

Q. And some of them went without coats?—A. Yes; very frequently without coats.

Q. That was August?—A. Yes.

Q. And in Texas?—A. Yes, sir.

Q. And in the southerly part of Texas?—A. Yes, sir.

Q. It is pretty warm away down there, isn't it?—A. Yes.

Q. Were they the only people who were going without coats?—A. No, sir; they were not the only people who were going without coats; there were lots of people who were going without coats; but a soldier is supposed to at least go on the street, when he moves out of his barracks, neatly and properly dressed; and when he does not it is the fault of his officers.

Q. And did you see anything at all, only this diversity of dress, as I will call it, that made you think they were slovenly?—A. I could tell. I think I know a soldier when I see one.

Q. Did you ever observe any disobedience on their part of any command or order?—A. I never saw them under the command of their officers at all that I know of.

Q. Did you get acquainted with their officers?—A. Very few of them.

Q. Did you get acquainted with Captain Lyon?—A. No.

Q. Or Captain Macklin?—A. Macklin I met the same evening that I went down to call on the commanding officer.

Q. You met him in the quarters of the commanding officer?—A. No, sir; at his quarters.

Q. You went up to his quarters?—A. Yes, sir.

Q. Did you get acquainted with Lieutenant Lawrason?—A. Yes, sir. We went up to Lieutenant Lawrason's quarters.

Q. Did not these seem to you to be very soldierly officers?—A. Lawrason looked all right; he seemed to be a soldierly officer.

Q. He looked all right?—A. Yes, sir.

Q. He is a citizen of Louisiana, is he not?—A. I do not know.

Q. You did not know about him in that respect?—A. No, sir.

Q. He is a graduate of West Point?—A. Yes.

Q. You thought that he was all right. And do you mean to have us infer, by saying that he looked all right, that the others did not impress you as being all right?—A. I must say that Major Penrose did not.

Q. He did not?—A. No, sir.

Q. In what way did he not?—A. Well, he came up the walk that evening without any collar on and no coat.

Q. Without a collar?—A. He had no collar; a fatigue shirt and no collar on.

Q. Well, that was a thing to take exception to, under the circumstances. And did you see anything else wrong with him?—A. No. That was not wrong. I am just simply remarking that the man was not neat and trim as an officer should be in the presence of his soldiers in the garrison.

Q. How else was he dressed?—A. He had on an ordinary and not very clean khaki uniform.

Q. An ordinary and not very clean khaki uniform. And how were the other officers dressed?—A. Those that I saw—I think Lawrason was possibly officer of the day—he had a sword on, and he was in fatigue uniform and looked all right. Grier had been quartermaster, and he told—

Q. Did you and your son talk about the negro soldiers while you were on that trip?—A. I think the casual remark was made by Will as we came up, "Those fellows do not look as though they were under good control."

Q. As if they were under control?

Senator WARNER. He said good control.

By Senator FORAKER:

Q. Under good control?—A. Yes, sir.

I will stop there. Now, Major, do you remember the visit to you that Captain Kelly testifies about in what I have read to you?—A. Yes, sir; very distinctly. Captain Kelly called at my house several days before the evening of the 13th, I do not remember what date it was, and was accompanied by his son. With my wife I was at dinner, and the servant brought the cards to me. I did not see Captain Kelly at that time. I did not see him that evening. I did not see him or lay eyes on him until the morning of the 14th, when he came in at the head of the citizens' committee to call on me. I never laid eyes on Captain Kelly until that morning. I was introduced that morning to Captain Kelly by Mayor Combe. That was several days before the 13th.

Q. That is when he called?—A. When he called; yes, sir. Now, I do not remember the date, but I know it was several days, for this reason, that a few days before this shooting occurred, in company with Captain Macklin I went to return Captain Kelly's call. We went to his house and there I met his son, young Captain Kelly, of the Ninth Cavalry, I think. I did not see the older Captain Kelly. His son excused him, saying that he had a headache that evening. We sat on the porch and talked for some little time, and young Captain Kelly brought up the fact that we had met before during the Spanish-American war, when he was in charge of several pack trains that were shipped on the same boat that we went over to Porto Rico on.

Q. Is it true or not that you met him on the walk?—A. I did not, sir.

Q. Is it true or not that you met him at any time when you were without a collar and without a coat, and in a dirty khaki uniform?—A. Senator, I do not think that anybody ever saw me without a coat or collar in the post, or in a dirty uniform. I am clean, if I am nothing else in the world. Another thing, it was my invariable custom at Brownsville, after the first two or three evenings we were there, to have my bath directly before dinner, and to get into a white uniform. I did that always.

Q. He states here that he called about 3 or 4 o'clock in the afternoon.—A. He did not, sir; he called after 6. We were at dinner. Our dinner hour was 6 o'clock.

Q. What was your dinner hour?—A. Six o'clock.

Q. You did not go out when the cards were brought to you?—A. No, sir; I did not. We were at dinner, and they left the cards and then left themselves.

Q. They were gone before you got the cards?—A. Yes, sir.

Q. So that you never saw him at any time or place until the morning of the 14th?—A. I never laid eyes on the man until the morning of the 14th.

Q. Now as to your men. Were they slovenly dressed or slouchy in their manner, as he describes them to have been, or what was the truth about that?—A. I was with that battalion for nearly three years, and I never saw any evidence of it in any way. They were an unusually clean lot of men. He says he saw some men with leggings and some without. Now, that is true. Many of these men had still the long trousers, and I permitted those men to wear their long trousers when they were not on duty. When they wore the long trousers they did not wear leggings. All our work was done in the chambray shirt and belt, and the breeches and leggings. The men were permitted to go in town in their chambray shirts.

Q. That was a part of the regular prescribed uniform?—A. Yes, sir.

Q. Was it not?—A. Yes, sir; the prescribed uniform, and it was the uniform that I prescribed for all work at Brownsville—at Fort Brown.

Q. And it was a part of the regulation and practice?—A. Yes, sir.

Q. To parade men with just the chambray shirts?—A. Yes, sir; in hot climates.

Q. In hot weather?—A. Yes, sir.

Q. So that there was nothing unusual about that, was there?—

A. Nothing at all, sir; I would like to state, though, most emphatically, that no one ever saw me in any such garb as that—never at any time or any place.

Q. Now, since you testified, Mrs. Leahy has testified, and at page 2921, in her testimony, occurs this, speaking about her mother:

Q. What part of Brownsville does she live in?—A. Right opposite my old home, known as the Leahy house; on some of my own lots—my property, sir.

Q. In the morning after the shooting did you go to your mother's house?—A. I went down, sir, between 5 and 6 o'clock—about 5.30.

Q. In going to your mother's house from your house which way did you go?—A. I went down the Cowen alley, and down the post fence to my house—my mother's.

Q. That is, you mean you went down what we call the garrison road between the post and the town?—A. Yes, sir.

Q. When you got to the garrison road you would go in what direction?—A. Down towards Jefferson street, right straight down the garrison wall.

Q. That is, away from the river?—A. Yes, sir.

Q. We have Elizabeth street and Washington street and Adams, and then comes Jefferson, does it not?—A. Yes, sir.

Q. When you went by the barracks this morning, did you see any of the soldiers? And if so, state what they were doing.—A. Yes, sir; I saw all along the garrison fence men posted, armed.

Q. Yes.—A. I also saw, I should presume—I am almost positive—five or six men sitting on the gallery upstairs cleaning guns.

Q. In which barracks was this, do you remember?—A. B barracks.

Q. B barracks. And what time in the morning was this?—A. 5.30. I was back to my own house after 6, to serve first breakfast.

Senator WARNER. That is all.

By Senator FORAKER:

Q. You saw five or six men on the back porch of one of these barracks buildings cleaning guns?—A. Yes, sir.

Q. Which one of the buildings?—A. B barracks.

Q. B barracks?—A. Yes, sir.

Q. Did you see anyone on either of the other barracks porches cleaning guns?—A. No, sir.

Q. You just saw five or six men?—A. Yes, sir.

Q. What were they doing?—A. They were polishing up the tops of the barrels and pulling rags through the barrels—some sticks, or something; I don't know what it was.

Q. This was 5.30 in the morning?—A. Yes, sir.

Q. Was this before sunrise or after?—A. After sunrise. It was daylight. I couldn't tell you whether the sun was up, but it was daylight already.

Q. I want to know whether it was as late as sunrise?—A. I don't know; I couldn't tell you. It was daylight; that is all I can tell you.

Q. You saw everything perfectly clearly?—A. As clear as I could look out of that window and see now.

Q. As clear as it is now?—A. I don't suppose it was probably as clear as it is now, but I could see as clear as now.

Q. Did you see any officers out there?—A. I did not. I saw only one officer, and that was down by the gate.

Q. That is, this large gate [indicating on map]?—A. Yes, sir.

Q. Do you know who that officer was?—A. No, sir; I do not.

Q. I want you to locate him as nearly as you can. This is the gate and there is the Cowen alley—the mouth of it [indicating on map]. Where was he?—A. He was on that walk, just about where the pointer is.

I will explain to the committee that the walk in question was the walk going into the reservation from the gate. [Reading:]

Q. Inside of the reservation?—A. Oh, yes; he was inside.

Q. Inside of the reservation, somewhere near D barracks, which is next towards the river?—A. Yes, sir.

I wish to say to the committee that I said B barracks and not D barracks. I pointed to this point indicated on the map, as I remember very distinctly. [Reading:]

Q. You saw the officer there? What was he doing?—A. He did not seem to be doing anything, but just standing there.

Q. Well, did he have on his sword and a revolver?—A. I couldn't tell you, sir.

Q. Was he in full uniform?—A. No, sir; I am not positive, but it was either an olive drab or a khaki he had on; but I think, if I am not mistaken, it was an olive drab.

Q. Do you know Captain Macklin?—A. Yes, sir.

Q. Was it he?—A. No, sir; I am positive it was not Captain Macklin I saw that morning.

Q. You are positive it was not Captain Macklin?—A. Yes, sir; I knew Captain Macklin personally.

Q. You knew Captain Lyon?—A. I have since, but I did not know him at that time.

Q. Did you know Captain Macklin at that time?—A. Yes, sir; he used to call at my house.

Q. Captain Lyon you did not know then?—A. No, sir.

Q. But you knew him since?—A. Yes, sir.

Q. You know how the officer looked?—A. No, sir; I was in too much of a hurry to pay any attention. I was going to see how my mother was.

Q. Did you look carefully enough to see it was an officer?—A. Yes, sir.

Q. But you can not tell us whether it was Captain Lyon?—A. No, sir.

Q. Did you know Captain Lawrason?—A. I did, sir. I saw him there that morning.

Q. At this same time?—A. No, sir; I think it was after that I saw Lieutenant Lawrason. He was near the little gate. That was between 7 and 8 o'clock.

Q. You knew him well?—A. Yes, sir; I knew him well.

Q. It was not Lieutenant Lawrason, then, whom you saw at that time?—A. No, sir.

Q. Do you know Lieutenant Grier?—A. Yes, sir.

Q. Did you know him at that time?—A. No, sir.

Q. Did he not board with you?—A. Afterwards.

Q. Afterwards?—A. Yes, sir; he boarded there afterwards.

Q. Did any of the officers come out and board with you after this shooting affray?—A. Lieutenant Grier.

Q. Lieutenant Grier did?—A. Yes, sir.

Q. He took his meals in your house?—A. Yes, sir; he and his wife both, for a month.

Q. For one month after this shooting?—A. Yes, sir.

Q. How long did he remain and on what account did he remain there?—A. As quartermaster, sir.

Q. He was quartermaster?—A. Yes, sir.

Q. He remained behind to transfer the baggage?—A. Yes, sir.

Q. And quartermaster's stores?—A. Yes, sir.

Q. And during all that time he boarded with you at your house?—A. Yes, sir.

Q. He and his wife?—A. Yes, sir.

Q. You know him, then, very well?—A. Yes, sir.

Q. Was it he you saw?—A. No, sir; it was not.

Q. Let me see, was there any other officer who was there? You know Major Penrose, do you not?—A. Yes, sir; I have met Major Penrose since, but I do not know whether I would recognize him to-day if I saw him.

Q. Could it have been Major Penrose you saw there?—A. It must have been either Major Penrose or Captain Lyon.

Q. It must have been either Major Penrose or Captain Lyon that you saw there at 5.30 in the morning, and at the time you saw either Major Penrose or Captain Lyon you also saw five or six men on the rear of B barracks, upper gallery, cleaning their guns?—A. Yes, sir.

Senator FORAKER. That will do.

Senator WARNER. That is all, Mrs. Leahy.

(Witness excused.)

Now, Major, can you give us any information as to what was happening about 5.30 to 6 o'clock on the morning of the 14th in the rear of B barracks?—A. Yes, sir; I think you will recall my testimony on that point before. As soon as it was daylight in the morning I myself went to the rear of the barracks, and I examined them all very carefully—all of the barracks in fact—but I commenced with C Company and then I went to B Company and then to D Company. I examined the barracks, both the lower and upper balconies. I was looking for bullet scars. That was certainly at half past 5 in the morning. I think first call for reveille was at 5.45—5.25, I think, first call was—and reveille at 5.30. It was just as soon as I could see that I went along the barracks. I was there probably before reveille, and I was there, I think, when reveille sounded. I went along there as soon as it was light enough to see. As soon as reveille was sounded, examination of the rifles was made in accordance with orders that I had given early that morning. As soon as it was light enough to see, the companies were paraded and examination of the rifles held at that time, and I presume it took until after 6 o'clock, because I did not note the time myself; but I was there myself from one end of those barracks to the other, and after I completed the three barracks that were occupied I went up and looked at the vacant set of barracks.

Q. If there had been any men on the upper rear gallery of B barracks at the hour of 5.30 to 6 o'clock in the morning of the 14th, cleaning guns or doing anything else, you would have seen them, would you not?—A. I think so; undoubtedly, sir. It may have been this way, Senator. If you recollect my examination before, there were seven men of B Company whom Lieutenant Lawrason, in examining his company, had put to one side. He asked me to examine the rifles of those seven men. I did. After I had completed my examination I called to Captain Lyon and asked him to examine these rifles, which he did. We found no powder stains whatever. The bores were simply dirty; from standing in the racks, probably. Now, when we got through with those men I directed them to join their company. Lieutenant Lawrason had gone out with B Company to relieve C Company, which was on guard, and it is just possible that those men may have wiped their rifles out with rags, but I did not see it, and I do not think they did, because I did not leave there until 8 o'clock; I did not leave that vicinity until 8 o'clock that morning.

Q. But did they have any opportunity to clean their rifles or wipe them out or do anything else to them before they were inspected by their officers that morning?—A. No, sir; I do not think it is possible. I think it is utterly impossible. Captain Macklin made his headquarters right there at the gate. His company was on guard and was standing right along the wall, along that entire wall, and Captain Macklin was right at the gate, excepting during intervals when he would go down the line.

Q. So that he was in a position to know what was going on there, after daylight?—A. As soon as it was daylight he could have seen it, undoubtedly.

Q. And how long did it take you to make the inspection of the rear galleries of the barracks?—A. I should think half to three-quarters of an hour.

Q. Did you see any men with guns in their hands until after the men were paraded?—A. I did not, sir; excepting those on guard.

Q. Now, I will ask you whether or not people were allowed, after the firing that night, to come up that alley and pass up the garrison road, as Mrs. Leahy describes she did; do you remember whether any order was given?—A. I am under the impression that Mayor Combe told me he would not permit anyone on that street at all; that he would so post his policemen that no one would go on that street. I do not recall seeing anyone on the street myself—I am referring to the street right along the wall.

Q. The garrison road?—A. The garrison road, or sometimes called the firing line.

Q. You did not see anyone pass up there that morning?—A. No, sir; I did not.

Q. And you were out examining these barracks, where you could have seen anybody passing up and down, from early daylight until these troops were inspected. Their arms were inspected, were they not?—A. Yes, sir; I could have seen anyone. They might have, up above somewheres, gone into that road where I could not see them, but at the gate I think I could have seen anyone.

Q. You remember the Tate-Newton affair?—A. Yes, sir.

Q. Did Newton and Lipscomb make any report to you; and if so, when and what was it?—A. I sent for the men, sir, after that report had been rendered to me by Captain Macklin that this difficulty had occurred between Newton and Tate and examined them both and had their testimony put in the form of an affidavit, which I think is before the committee. I examined first Newton and then Lipscomb. That was the 9th or the 10th, I think. I have forgotten that date. I think I made the report to the collector of customs on the 10th, and I presume that must have been the 9th—the 8th or the 9th, I have forgotten now—but I think the copy of my letter to the collector is in evidence here.

Q. And that would show all that?—A. Yes, sir; I know it is here.

Q. The point is, did they show any resentment or any ill disposition?—A. Not at all, sir. Newton told me his story in a very calm, straightforward way, and he showed nothing of that sort whatever. He appeared to me to be rather hurt that a thing of that kind could happen. I questioned him very closely about it. I asked him if he could have even brushed against these ladies in any way, and I told him at the time that I was investigating it, and if I found that he had been rude to these ladies I should punish him to the very limit, and if, on the other hand, I found that he was not rude I should do what I could to have the matter rectified.

Q. He seemed satisfied with that, so far as you were concerned?—A. Yes, sir.

Q. Now, you accompanied the battalion when it went from Fort Niobrara down to Brownsville?—A. Yes, sir.

Q. You were on the train?—A. Yes, sir.

Q. About where in the train did you ride?—A. Our coach was the last coach on the train, sir.

Q. Do you remember a place called Sinton?—A. Yes, sir.

Q. Do you remember whether you were up or not at that time when you passed there?—A. I was not up when we arrived at Sinton.

Q. What time was it?—A. It was very early in the morning, some me, sir. When I woke up it was daylight; I got up and dressed and went out on the platform before the train pulled out of Sinton.

Q. So that you were up and out on the platform at Sinton?—A. Yes, sir.

Q. Before the train left there?—A. Yes, sir.

Q. Do you remember the conductor who had charge of the train?—A. I do not recall his name at all, sir; I do not know whether I ever heard his name.

Q. Did you see the conductor?—A. Yes, sir; I saw the conductor.

Q. Did he make any complaint to you of any kind of improper conduct on the part of the men in deportment or in language or in any other way?—A. No, sir; not at all.

Q. You heard of none?—A. No complaint whatever was made to me.

Q. What is it?—A. No complaint was made to me, nor did I hear of any.

Q. It was testified by General Garlington, who has appeared before the committee since you testified, that you told him that Captain Macklin had told you about covering up some shells in the alley with his foot. I wish you would tell just what that was?—A. A shell.

Q. What?—A. A shell, he told me. The general must have misunderstood me, sir. I told him that Captain Macklin told me that right at the mouth of the alley—may I show the committee here just what I mean, on the map?

Q. Yes; certainly.—A. I don't think that this barracks is located exactly right [indicating B barracks]. I think that this end should come up here [indicating].

Senator FORAKER. These other witnesses have told us the same thing.

By Senator OVERMAN:

Q. B barracks should go higher up?—A. Yes, sir; B barracks, because there is a latrine right in the center of that barracks, and it is right on a line with that alley.

Q. The side of the alley next to the river, on the line of that [indicating]?—A. Yes, sir; that is, the prolongation right in here would bring it right here [indicating], and you can see directly in that alley from that.

By Senator WARNER:

Q. From the center of the barracks?—A. Yes, sir; it may be a little to one side of the center, but I think it is in the center [indicating]. That morning when I sent Captain Macklin out to see if he could find some shells, he picked up some along here [indicating].

Q. When you say "he picked up some along here," indicate in words where that would be.—A. Running from the garrison road, from Elizabeth street up to the alley. There is a little oil house right in here [indicating on map], and I think it was beyond that oil house. He told me when he came back, and he had these shells and clips in his hand, that he had found a shell right opposite the mouth of the alley.

Q. A shell?—A. A shell, and that he did not pick it up because he saw people down the alley and looking up that way, evidently

picking up something themselves, and he did not pick it up, but put his foot on it.

By Senator FORAKER:

Q. That is what you told General Garlington?—A. Yes, sir; I must have told General Garlington that.

Q. One shell and not a number of shells?—A. Yes, sir.

Q. We only want to get what the facts are. You did not see Captain Macklin pick up any shells?—A. No, sir; I walked around this way [indicating], and when I came back Captain Macklin came in. As I told you, with his arms folded that way [indicating] and we walked out in this path across here a little way—the path goes straight across here—and he opened his hands and in his right hand he had the clips and in his left hand he had several shells.

By Senator OVERMAN:

Q. I understood you to say on your former examination that there was evidence on these shells of recent firing?—A. Yes, sir; they looked to me like they had been recently fired.

By Senator FORAKER:

Q. But you did not examine them?—A. Not closely. I picked up two of them in my hand and saw that they were Frankford Arsenal shells.

By Senator WARNER:

Q. I did not hear that.—A. I picked up two of them.

Q. And what did you find?—A. They were Frankford Arsenal shells.

By Senator TALIAFERRO:

Q. Why did Captain Macklin wish to conceal that shell?—A. I do not know, sir.

Q. Did you not ask him?—A. He said he saw several men picking up something in the alleyway, and he did not want them to see what he was doing. Captain Macklin is here and you can ask him about that.

Q. I wanted merely to know what he told you.—A. That is what he told me.

By Senator OVERMAN:

Q. Did you instruct him to preserve, to keep, those shells?—A. No, sir; I did not give him any instructions about them. He told me some time afterwards that he had put them in a drawer of his company desk—that was some time afterwards, when we were hunting for them—and that desk had been shipped from Fort Brown to Fort Sam Houston.

Q. Did you look for them before the desk was shipped?—A. No, sir; that was after we left Brownsville.

By Senator FORAKER:

Q. Now, as to the character of the night, whether it was dark or otherwise—

Senator WARNER. I will submit, Senator, that Major Penrose has testified as to the character of that night, right along.

Senator FORAKER. I think if you will let me explain what I have in mind, you will see that it is all right.

Senator WARNER. I make the suggestion only in the interest of saving time.

The CHAIRMAN. Several witnesses have testified as to the character of the night.

Senator FORAKER. They testified only in a general way. When Major Penrose testified first he had not any of these statements which I want now to call his attention to.

By Senator FORAKER:

Q. Could you recall any incident, which you could relate to us, which would indicate how dark it was?—A. Yes, sir; I could not tell one of my own officers over 10 feet away.

Q. You could not tell one of your own officers?—A. No, sir.

Q. That you remember very distinctly?—A. Very distinctly.

Q. It was as dark as that?—A. It was as dark as that. I remember in walking up and down the line where the men were all posted, and I recall it when Hairston came to my house.

Q. Hairston?—A. Yes, sir.

Q. He was the sentinel?—A. Yes, sir; No. 3 around the line of officers' quarters. He came around to my quarters, and I almost ran into him when I came out of the door, and I could not distinguish who the man was at all, and I did not know until the next morning at 9 o'clock, when I inquired.

Q. You did not know who he was?—A. I say I ran into him, brushed against him, as I came out of the house. Of course I did not look particularly to see who it was. And in walking up and down the line I had to go very close to the officers to tell whether they were white men or colored men.

Q. Now, I call your attention to the corner of Fourteenth and Washington streets. I am pointing to it [indicating on map]. State whether or not one standing at that corner and looking down Fourteenth street could see men crossing Fourteenth street on the Cowen alley, and see them distinctly enough to count them and tell what kind of clothing they were wearing, and whether they were white men or colored men, without any artificial light and aid. Could one do that?—A. I do not think it is possible, sir.

Q. Yes.—A. I do not think it is possible.

Q. Now, I will ask you whether or not, standing in the window in the second story of the Leahy House, and looking out across Fourteenth street and across the alley to the place to which I now point, namely, the side of the alley opposite the Cowen house, one could see that night distinctly enough without any artificial light to recognize men and determine whether they were white or colored and how they were dressed?—A. I do not think so, sir.

Senator PETTUS. Say, by the flash of the guns.

By Senator FORAKER:

Q. Well, by the flash of the guns?—A. No, sir; you could not by the flash of the guns.

Q. Now, tell us whether or not the flash of the guns would aid in that?—A. I do not think at all. It is so instantaneous, so slight, that I do not think you can distinguish anything by the flash of the gun.

Q. Could one, looking out of the upper story of the telegraph building, at the corner of Elizabeth street and garrison road, for instance,

see people clambering over the wall up about the mouth of the Cowen alley?—A. No, indeed, sir. No, sir; they could not.

Q. There are no lights in there in that locality at all, are there?—A. No, sir; there was a light at the gate.

Q. What kind of a light was that?—A. An oil lamp.

Q. An oil lamp?—A. Yes, sir. I couldn't tell you how many candlepower; I don't know.

Q. At the gate. That is 130 feet from the mouth of the Cowen alley, is it not?—A. About that, I believe, sir. But I was going to say this, Senator: There is an oil house I intended to tell about in here [indicating on map].

Q. Yes; where is that?—A. About between the figure "4" and the letter "F" [indicating on map].

Q. Right in there?—A. Yes, sir.

Q. With reference to B barracks?—A. Yes, sir; it is shown in one of the pictures attached to Mr. Purdy's report. Now, it had been raining and was quite muddy.

Q. It had been raining?—A. Yes, sir.

Q. And it was quite muddy?—A. Yes, sir; and from the light here I could see there was a mud puddle about there [indicating on map].

Q. How far is that point from the gate?—A. I presume that is 40 feet, maybe 30 or 40 feet. Now, I am guessing, gentlemen, I do not know absolutely.

Q. There was a mud puddle there?—A. There was a mud puddle there I could see. When I went down the line I went around this mud puddle, and went right in behind it to inspect these men along the fence, and I got in this mud puddle right around east of this oil house, that I didn't see at all. I got in water that came over the lacings of my shoes.

Q. You got in it before you knew it was there?—A. Yes, sir; before I knew it was there.

Q. And you were looking where you were going?—A. Yes, sir.

Q. State whether or not you could see the men posted as sentinels there?—A. I could not until I got out beyond the oil house. I could not until I got close to them.

Senator TALIAFERRO. Does the witness understand that a number of witnesses have testified that they did see these men under the conditions which you are describing?

Senator FORAKER. I have not recited that to the witness, but I have no objection to doing it if it is desired, at the request of Senator Taliaferro.

By Senator FORAKER:

Q. At the suggestion of Senator Taliaferro, I will say to you that a number of witnesses have testified—Mr. and Mrs. Rendall have testified—that they saw people assembling up near or opposite the mouth of the alley; saw them going over the wall at about that point—I can not give the exact language from recollection—and Lieutenant Dominguez testified that he looked down from the corner of Washington and Fourteenth streets, along Fourteenth street, and saw two squads of soldiers of four men each cross Fourteenth street, in the alley, and recognized their uniforms, and that they were colored soldiers. Now, knowing that that has been testified to—

Senator SCOTT. Mrs. Leahy testified that she saw 16.

Senator FORAKER. I am going to speak of that.

Q. (Continuing.) Knowing that these witnesses have testified to these things, does that change your belief?—A. No, sir; it does not.

Q. Mrs. Leahy has testified, as nearly as I can recall her testimony, that she looked out of her second story window and saw 16 men come up the alley and cross Fourteenth street after doing a lot of firing in that neighborhood, and she describes them with great accuracy, as to their clothing, and so forth. Would the fact that she so testified change the opinion that you have given, that they could not see them?—A. No, sir; I think they are mistaken.

Q. Mr. McDonald testified that he stood at the corner of the alley, the mouth of the alley, and looked down Fifteenth street and saw men about the gate, about the telegraph office, I think, opposite the gate, and that they divided there and some went up Elizabeth street, but some came up to the alley and turned down the alley, and after they turned down the alley he came to the corner and looked down and saw them firing into the Cowen house, and he said that he could recognize them and distinguish that they were soldiers? Do you think that he could do that?—A. I do not, Senator.

Q. Mrs. Leahy testified not only that she saw 16 men, but that she saw two of the men so distinctly that she could describe them accurately, one as a very dark negro and the other as a mulatto with spots all over his face.—A. At what distance, sir?

Q. He was in the alley, somewhere about the alley and Fourteenth street, somewhere about that corner, and she was upstairs in her house.

By Senator SCOTT:

Q. She testified, when I asked the question, 35 feet.

Senator FORAKER. She said 35 feet, but it was evidently 60 feet [indicating on map].

Senator WARNER. I submit that we should go by the evidence.

By Senator FORAKER:

Q. She said that she should judge it was about 35 feet. Do you think she could—A. I do not, gentlemen. My recollection of that night is very, very distinct.

By Senator OVERMAN:

Q. Would it not depend on the lights in the houses whether she could or not—from the windows?—A. Yes, sir; she might if there were any lights.

Q. You do not know anything about the lights?—A. No, sir; I do not know.

Q. You were not up there to see the lights?—A. No, sir; and I do not know anything about the lights at all.

By Senator FORAKER:

Q. They have testified that there was only one light in the Cowen house after the firing commenced, and that one of the first shots, after the first bunch of shots, extinguished that light, and after that there was no light anywhere in that vicinity.

Senator WARNER. Senator Foraker, you are in error. There was more than one light.

Senator FORAKER. Where?

Senator WARNER. In the Cowen house.

Senator FORAKER. There was one in the front part of the Cowen house and one in the middle of it—and that was extinguished also by the concussion—which, if it gave any light, would throw light out towards Fourteenth street.

Senator WARNER. I suppose the Major is now testifying as an expert.

Senator FORAKER. No; he is testifying to a fact.

Senator WARNER. I do not see how he can possibly testify to a fact if he is not testifying as an expert.

Senator FORAKER. He is giving us the benefit of his opinion as to what could be seen, based on the character of the night at that time. Now, I put that in this way: I want to recall that there were two lights burning when the shooting commenced in the Cowen house. Mrs. Cowen testified that both were extinguished, one by a mere concussion, I think she said, and the other by the lamp being broken.

By Senator FORAKER:

Q. Now, assuming that there was no light there at the time of this firing, it is your opinion, as I understand it, that it would be impossible for her to see men and recognize them at that distance?—A. That would be my opinion.

Q. Was there anybody in your battalion that had so many spots on his face that you could recognize him, or ever did recognize him, even in broad daylight?—A. I do not know that I understand you, sir.

Q. Was there anybody in your battalion who had so many spots on his face that you could recognize him or his spots even in broad daylight? Do you recollect anybody?—A. It seems to me there were two. There were a few men—three or four men—that were freckled, in the battalion.

Q. Freckled?—A. Yes, sir.

Q. Well, how freckled?—A. They were rather light mulattoes, and were freckled.

Q. Were they freckled and spotted to such an extent that you could distinguish them in the nighttime—such a night as that?—A. No, sir; I could not do that.

By Senator OVERMAN:

Q. Not knowing the condition of these streets up there, and the extent of the lights there, would you pretend to say that these people who have sworn that they saw these people were mistaken?—A. If there were lights, that alters the case entirely. I am supposing that there were no lights. I am testifying as to the night itself and what I saw. I do not know what they saw in the streets.

Q. You are taking the conditions?—A. The condition of the light that night.

Q. Of the lights in that part of town?—A. No, sir; I don't know anything about it, except that one light there [indicating on map].

By Senator TALIAFERRO:

Q. As an evidence of the darkness of the night, you cited the fact that on coming out of the house you did not recognize a soldier?—A. Yes, sir.

Q. Was there a light in your house?—A. There was a light upstairs, not downstairs. There was only a lantern.

Q. Had you dressed by a light?—A. The slight light which came from this lantern, which was in the other room. It just shone in through the door.

Q. Had you dressed by the light?—A. Yes; that light I am telling you of.

Q. It was light enough for you to dress by?—A. Yes, sir.

Q. Did you go out immediately afterwards?—A. Yes, sir.

Q. Would that make any difference, coming out of a light, into a dark night?—A. No, sir; the light was not bright enough for that.

Q. Would not any light tend to make it darker if you immediately came out of it into the night?—A. Well, it was quite as dark after I had been out some time as it was when I first came out, sir. I do not think that affected my eyes at all, sir; the slight light I had there.

Q. There were lights at the gate?—A. Yes, sir; there was a light at the gate.

Q. Then a man standing at the mouth of the alley and looking down at the gate where the soldiers were assembled—you say he could not recognize them?—A. I say that I do not believe that he could. I don't know.

Q. You are not prepared to say that those witnesses who have sworn that they saw these people testified falsely?—A. No, sir; I would not say that, but I do not see how it was possible for them to see the distances they claim.

Q. You are quite satisfied that you could not see?—A. Yes, sir.

Q. You are not so certain as to what other people might have done?—A. No, sir; I can not tell what other people could do, but the night was so dark that I do not see how anyone could see that distance at all.

Q. I notice you wear glasses?—A. Yes, sir.

Q. Do you use them at night?—A. Always, sir. I always keep them right alongside of my bed, either on a table or a chair, and I put them on as soon as I get up. The glasses correct the vision, so oculists tell me, it is normal with glasses.

By Senator FORAKER:

Q. That is, with glasses your vision is normal?—A. Yes, sir.

By Senator BULKELEY:

Q. Where was the light at the gate?—A. Right on one of the posts, the post on the east side of the gate. There is a small gate. There is a large gate to the wagon road, and there is a small gate to the footpath, and it was on the post, or I think there was an iron rod that went over the gate, and it was suspended from that. I think that shows in one of the pictures.

Q. There was only one lamp there?—A. Only one lamp.

Q. And that was over the pedestrian gate?—A. Yes, sir.

Senator BULKELEY. Not three lights.

By Senator OVERMAN:

Q. Supposing a man were sitting in the window here in the Cowen house, and there was a light in that window, and right under that window some soldiers passed, going on down, do you suppose he could

see them as he was sitting in the window, right at the window within 6 feet?—A. I think he might.

Q. That could have been possible?—A. That could have been possible.

By Senator FORAKER:

Q. I show you the picture in the Purdy report.—A. No. 5.

Q. Does that correctly represent the lamp over the little gate?—A. Yes, sir; I think that lamp is right there. There is no lamp beyond that at all.

Q. There were no lamps that night over the big gatepost?—A. No, sir; there was no light over the big post. I don't think they are fixed for lights at all.

Q. It has been suggested here by a question, I don't know whether you know or not, that the fort has been dismantled since, that it had been dismantled when these pictures were taken, and perhaps the lamps that had been over the post at the big gate had been removed. Have you a recollection whether there were any lamps over the post?—A. I think not, sir.

Q. Just the one lamp?—A. I think there was just that one lamp lighted.

Q. I did not quite finish my examination. Mrs. Leahy testified that she was in the upper story of her boarding house, and that she looked out—

Senator WARNER. In the second story.

By Senator FORAKER:

Q. In the second story, and looked out across Fourteenth street and up towards B barracks, looking between the Cowen house and the annex to her house, as shown in picture No. 13, of the Purdy testimony—A. Let me see that.

Q. And that she saw men walking back and forth on the upper gallery of B barracks and saw flashes of guns from there. State whether or not that was, in your opinion, possible.—A. I do not think so, sir.

Q. I call your attention to the fact that there seems to be a tree there.—A. Yes, sir.

Q. According to that picture, which it says below is taken from that very window where she stood, that tree rises to the height of the roof of the barracks, does it not?—A. Yes, sir; a portion of it rises to the height of the barracks.

By the CHAIRMAN:

Q. May I ask a question there? • Major Penrose, were you ever in the rooms of the Leahy Hotel?—A. No, sir; I was never inside the Leahy Hotel.

Senator WARNER. I think it will appear from the testimony that that tree did not obstruct the view at all.

By Senator FORAKER:

Q. She said that she either looked over it or looked through the tree, through the leaves of it.

Senator WARNER. I think that Mr. Leckie himself has testified that the tree did not obstruct the view.

By Senator FORAKER:

Q. I have not looked through his testimony; but my recollection is that the tree did obstruct the view. I am not sure that I am right about it. Now, Major, there was a good deal of other testimony given by different witnesses as to what they saw at different distances and under different circumstances, but I pass all that by. What you have testified to would apply to any similar testimony, would it not?—A. Yes, sir; I think it would.

Q. And your experience was that the night was so dark you could not distinguish your own officers 10 feet away from you?—A. They were within 10 feet before I could distinguish that they were my officers—white men.

Q. Now, something was said by Captain Kelly and some others about your troops being not well disciplined. Can you tell us what the record of your battalion is in that respect, down to the 13th of August?—A. I think the records will show, sir, that it was an excellently disciplined battalion.

Q. And well drilled?—A. Well drilled. I consider it one of the best that I have ever seen.

Q. Were the men of a character hard to get along with, or otherwise?—A. No, sir; they were very easy to discipline.

Q. As a rule deported themselves well?—A. As a rule, they behaved themselves very well. That can be borne out by the records of the post, the summary court record, the records of courts-martial, and also, I think, by any officers who have seen them, either before this occurrence or afterwards.

Q. Now, afterwards, since August 13, and particularly since they have been discharged, what has been their records, in so far as you know, as to deporting themselves properly?—A. So far as I know their record has been excellent. I know at the time of their discharge, when we were discharging them at Fort Reno, I was in constant communication with the chief of police of El Reno, the town 5 miles distant, and he told me that he did not see a drunken man, nor did he have any disorder among those men of any kind. He told me that he would not know that the men were being discharged at all.

Q. Did you have any special experience in the inspection of the Springfield rifle after you were supplied with that?—A. No, sir. About the only time that I have seen them to examine them would be at muster, at the end of the month.

Q. Your line officers did that?—A. Yes, sir. They are the ones who know a good deal more about it than I do.

Q. I believe that is all I want to ask you, Major Penrose, unless there is something you want to state?—A. I think there is nothing more, sir, that I wish to state.

By Senator PETTUS:

Q. Major, I should like to ask you a few questions about that firing; in the early stage of it. It seems to be testified to by a number of persons that there was firing near B barracks on that occasion; right at B barracks. Now, how can you account for it being possible that nobody at B barracks knew who it was?—A. I don't know, Senator; I don't know, sir. I wish I did. I wish I could account for it.

• Q. Well, Major, will you please, in your own way, explain fully to the committee the change which had taken place in your opinion as to who did that shooting?—A. Yes, sir.

Q. And also account, if you can, if the men did not do it, who did?—A. Well, I don't know that I can account for that part of it. I can tell you the reason of my change, sir. At the time I was at Fort Brown, when this shooting occurred, up to the time we left there, up to the time those men were discharged, up to the time of my trial, and during a portion of my trial I was of the opinion that these men had done that shooting. I so reported it on several occasions, which, I think, is all of record before this committee now. It was during my trial that my opinion commenced to change, and it was principally on the testimony of the witnesses that came from Brownsville as to what they were able to see that night. I did not think, and I do not think, that it is possible for them to have seen what they claim to have done on that night. I know the conditions that night, perfectly, myself. I know what I could see, and I can not see how it was possible for anyone to see at 125 feet, to be able to distinguish whether men were white or black, whether they were in civilian garb or in the uniform of a soldier. Then it was also brought out before my court the fact that Captain Macklin found a number of these shells and five clips in a very small space; I think he said about 18 inches in diameter.

Senator FORAKER. About 10 inches.

A. Well, that is my recollection. I may be a little wrong, but I will say 18 inches—that he found those clips and shells together. I know it is impossible to eject shells from a gun and not have them fly off at various angles, and to a much greater distance than that. I feel satisfied in my own mind that the only way those shells could have gotten there in that particular position was by them being put there.

By Senator LODGE:

Q. Were those all the shells that were found?—A. All that Captain Macklin found.

Q. There were other shells?—A. I am not sure that they were all that Captain Macklin found, but he found them in that small space.

Q. Were all the shells that were found within a space of 10 inches—were they all found in a little bunch?—A. That Captain Macklin found?

Q. That anybody found.—A. I don't know. It was only reported to me that others were found up that alley; that was by the mayor.

By Senator TALIAFERRO:

Q. Was this shell that he attempted to conceal found within this area?—A. No, sir; that was beyond that; that was right at the mouth of the alley.

By Senator OVERMAN:

Q. But, Major, you made up your mind that your soldiers had done the shooting without hearing any testimony of the eyewitnesses as to the soldiers being seen?—A. Yes, sir. Mayor Combe, Captain Kelly, and all of the gentlemen of that committee had told me that different people at Brownsville had reported seeing those men.

Q. But didn't you make up your mind that your men had done it when you saw that those were army shells, that they were freshly fired, and you found no bullets through the quarters? Taking that into consideration, didn't you make up your mind then that your soldiers had done it?—A. Yes, sir; I did.

Q. When those gentlemen told you that those men had been seen on the streets did you not at that time remember the darkness of the night as distinctly as you do to-day?—A. Yes, sir; exactly.

Q. Why did you believe it then and discredit it to-day?—A. Because I thought there might have been some lights that they might have seen them by which I did not know of at that time.

Q. Do you not still concede that there may have been?—A. There may have been in the Cowen house; that is the only thing I know about any lights being seen.

Senator HEMENWAY. I was going to suggest that Senator Pettus has put a question, and that the witness should be allowed to answer it.

Senator OVERMAN. I thought he was through.

By Senator PETTUS:

Q. Will you please finish your answer to my question?—A. Yes, sir.

Q. I want to know fully what produced this change in your mind, in your opinion, as to who did that shooting?—A. I am trying to give it to you, Senator. There was another question or two asked of me, if you will remember.

Q. I want you to explain it fully in your own way.—A. Yes, sir. Well, as I say, the darkness of this night and the finding of those shells—my opinion commenced to change at that time. Then there was the testimony that was produced before this committee as to the experiment that was made at the Frankford Arsenal, where they found that 11 shells were fired from one gun.

Senator FORAKER. A Springfield?

A. One Springfield rifle that had been locked up in the arms chest at Fort Niobrara and was not opened until the morning of the 14th of August. They claim that 11—I think it is 11—of those shells, or 11 shells, fired from that gun, were found in the streets of Brownsville. Those shells were brought down from Fort Niobrara to Brownsville. They were open, on the back porch of B Company. They were open there several days, I don't remember how long. I can see no way in the world that those shells could have been fired in the streets of Brownsville. There is another thing: I think they were taken out there and put there. That is the reason that I have changed my opinion, sir.

By Senator LODGE:

Q. You think those shells were put all over the town in order to give the idea that the soldiers did the shooting?—A. I think certainly those 11 shells were, sir.

Q. Well, but it is in testimony and, I think, uncontradicted, that shells were picked up at a great many points?—A. Yes, sir; so I understand.

Q. Your idea is that they must have been put there, at all those points?—A. That is my idea of it, sir.

By Senator OVERMAN:

Q. Do you think those freshly fired shells that were found there at the mouth of the alley were brought down from Niobrara?—A. I think so now.

Q. And put there?—A. I believe they were, sir.

Q. Yet you say they were freshly fired?—A. They had the appearance to me. They had only been fired a month before.

By Senator TALIAFERRO:

Q. Who do you think brought them from Niobrara?—A. B Company brought them down.

Q. Who do you think distributed them in the streets?—A. I don't know, sir, unless some of the people of Brownsville.

Q. How did they get out of the custody of B Company?—A. They were open on the back porch of B Company, and were left there for several days, Senator—this box was. I think the testimony so shows here.

Q. They were at least more accessible to the members of B Company than they were to the public at large?—A. Yes, sir; that would be very possible that they were.

Senator SCOTT. I should like to hear the answer to Senator Pettus's question, if I can get it.

By the CHAIRMAN:

Q. If you have anything further to say in answer to the question of the Senator from Alabama, you will, of course, proceed with it and make full answer.—A. I should state in connection with that that there was the behavior of the men before this shooting occurred. They had been an excellent lot of men. We had never had any trouble with them; they were well disciplined, well drilled, easy to handle. From the time that this shooting occurred none of them was permitted to leave Fort Brown at all. We took them up to Fort Reno, Okla., and there they were confined absolutely to the limits of the post—the post proper. They were not permitted to leave it under any circumstances. I gave them extra drills, extra guard, and had them working at fatigue whenever they were not drilling or on guard, the whole day long. Those men took all that without a murmur or a complaint of any kind. There were five of the men who disobeyed that order and went to town. They were each tried, dishonorably discharged, and sentenced to eighteen months' confinement at the military prison at Fort Leavenworth, Kans., and that was reduced by the reviewing authority to six months. Those five exceptions were the only ones that disobeyed any of the orders that were issued at all. Finally the order came for their discharge. They were discharged at that post, a half a company at a time. They were paid off. They had anywhere from fifty or sixty dollars to, some of them, twelve or thirteen hundred dollars. They went to this little town, which was full of temptations, and, as I stated before, there was not a single man found drunk, nor was there a disturbance of any kind or character reported of these men, and I talked with the chief of police over the telephone frequently. Now, taking into consideration the conduct of these men both before and afterwards, and what I have before stated, leads me to believe that the men did not do that shooting.

By Senator PETTUS:

Q. Is that your full answer?—A. Yes, sir.

Q. Now, Major, can you explain in any way why so many persons have testified that there was firing near B barracks, and a considerable number of shots—five, or six, or seven, or eight, or maybe more—how does it happen that so many witnesses, almost every witness who has testified has stated that there was firing at B barracks—how could that happen without all those witnesses just willfully testifying falsely?—A. I don't know, Senator. I don't pretend to be able to answer that. I am only giving you my impressions, sir. You asked me for that, for my reasons for changing.

Q. Does not your theory involve a contradiction of all these people, of all the witnesses who have testified that there was firing at B barracks or near there?—A. By the men?

Q. Well, by somebody.—A. Yes, sir; by somebody—yes, sir; it does.

Q. If there had been firing there, would not those men necessarily—somebody in those barracks—have known who it was?—A. I think so. I think they would. We have never been able to find out from any of the men. I have questioned every noncommissioned officer several times and a great many of the privates myself.

Q. Major, don't you know that when negroes or any other men who have been subjected to slavery have been accused of crime they are apt to testify together? Don't you know that as a fact in the history of the world?—A. Yes, sir; I think I do, sir. I have stated, too, that I think the negro is much more secretive than the white man, in my experience with negro troops.

Q. Major, can you account for that firing in the neighborhood of B barracks, if there was any, by any theory that you have in your mind?—A. No, sir; I do not.

Q. Does not your present position involve the proposition that there was not any firing near B barracks?—A. I do not understand your question.

Q. Does not your present opinion and testimony involve the proposition that there was no firing that night at or near B barracks?—A. No, sir; I do not think so, because I heard firing in the rear of B barracks. I heard it myself. It was in that general direction. I thought it was in the rear of B, or maybe C.

Q. Have you any theory as to how that could have been done without the soldiers knowing who did it?—A. No, sir; I have not.

By Senator TALIAFERRO:

Q. You think some of them must have known who did it?—A. I have thought—

By Senator PETTUS:

Q. You have thought what?—A. I say I have thought a great deal over the matter. I have questioned all those men. I have tried as hard, I think, as any man in the world could, to come at some conclusion, and I have not. The more I think of this thing the more I am muddled over it—I don't know.

Q. Major, are you not perfectly satisfied now that one man was killed and that a town officer was crippled in that shooting?—A. It was reported to me that a man was killed, Frank Natus. It was re-

ported at that time that the lieutenant of police was wounded in the arm, and I have since seen him, and he has lost his right arm.

Q. Have you any doubt of that now?—A. About his losing his arm; no, sir.

Q. About his being shot on that night?—A. No, sir; there is no doubt in my mind about that.

Q. And at the place where it is said he was shot?—A. No, sir; there is no doubt in my mind.

Q. Well, have you any doubt about the man being killed?—A. No, sir; there is no doubt, I don't think so. I have every reason to believe that he was.

Q. "Every reason to believe." Is it not a matter of fixed certainty in your mind?—A. Yes, sir; I can say that it is a matter of fixed certainty.

Q. That the man was killed and that another one was badly crippled?—A. Yes, sir.

Q. Now, have you any theory on which you can try to explain to this committee how that happened, and who did it?—A. No, sir; I have not. Since I do not think it was the men, I haven't any theory about it. I don't know surely who did it.

Q. If there had been a dozen shots, or say five or half a dozen shot fired at or about B barracks that night, do you think it is possible that the soldiers would not have known it?—A. No, sir; I think the soldiers would have known it, if they had been fired.

Q. Does not the testimony of the soldiers of your command, if it is true, prove that there was no firing at or near B barracks that night?—A. Why, no, Senator; I have understood all along that that firing was in the alley. That has always been my belief.

Q. Sir?—A. In the alley, right at the mouth of the alley in the rear of B barracks; that is where I think it was, where I located it myself, when I first heard it. It was either that or possibly the western end of C.

Q. Could there have been any firing at or near B barracks without some of your soldiers knowing who did it?—A. No, sir; I do not think so. I think at the barracks they would have known it.

Q. Does not your present theory prove that there was no firing there?—A. At the barracks; yes, sir.

Q. At or near, or in the street there?—A. I say in the mouth of the alley. Do you call that near?

Q. At or near the barracks?—A. I think the firing was at the mouth of the alley.

Q. Major, does not that prove too much?—A. Sir?

Q. Does not that theory that there was no firing there prove too much—prove more than you could believe?—A. No, sir.

Q. Have you got it in your mind now, Major—you testified as to your belief—that there was no firing at or near B barracks?—A. I do not think there was any firing at B barracks. I think there was firing in that alley.

Q. Firing in that alley, right at it?—A. Right across the wall.

Q. In that road?—A. In the garrison road.

Q. The garrison road?—A. Yes, sir.

Q. You think there was?—A. That is the way it sounded to me that night.

Q. Oh, well, I am speaking about your present belief.—A. Yes, sir; my present belief is that there was shooting there.

Q. Could that have been done without the soldiers, some of them, knowing about it?—A. I think it might have been done in that alley, yes, sir; without their knowing it.

Q. Four or five or six shots, and coming from different parts of the alley?—A. I did not know that they had come from different parts of the alley.

Q. Well, supposing they did come from the junction there of the alley with the garrison road, could that have happened without some of the soldiers—there are always some men awake if your discipline is followed up—there is always somebody on guard?—A. There is. There was a man on guard that night. Yes, sir; I think it could have happened, and he not know it.

Q. It could have happened without the men knowing it?—A. I think so; yes, sir. I think it could have been so.

Q. What could have become of the men?—A. I don't know, sir.

Q. You can not account for how they came there—somebody else having come there and fired and left without anybody seeing them?—A. That might have been done.

Q. You think that could have been done?—A. Yes, sir; I think that could have been done.

Q. Major, upon your theory that none of your men knew anything about it, does not that involve too much?—A. Well, that might seem to you so, sir; and it may seem so to some of the rest of the gentlemen of the committee, but it does not to me.

Q. It does not to you. Major, according to your experience—I am speaking now with the utmost deference and asking you from your personal experience—is not the commanding officer always, if he is an upright, honest, honorable man, always inclined to protect his soldiers against all charges?—A. Well, I can not say against all charges. I think he would protect them just as far as it lay in his power. I would not protect any man if I knew that he was guilty. I never have.

Q. If you knew he were guilty?—A. Yes, sir. I expect that possibly if there were a doubt I would be inclined to give him the benefit of it. I think, maybe, I would.

Q. Major, is it not your experience that the officers in command of a company or a regiment or a battalion, or any other officer—I am speaking of honorable, upright officers—are they not always strongly disposed to believe that which favors the men as against that which implicates them?—A. No; I do not think so, Senator. I think they are willing to look at it fairly.

Q. Do you think that a man in your position could be an absolutely impartial judge?—A. I think I could.

Q. You think so?—A. I think so, sir.

Q. Have you never thought otherwise about other upright officers?—A. No, sir.

Q. You think any upright officer is bound to be an impartial judge in reference to his men?—A. I think he is, just as far as it is possible for him to do so.

Q. As far as it is possible for an upright officer—should he not feel an interest in his men?—A. Why, certainly; I said a few moments ago that they are inclined toward the men.

Q. Would not a man of that sort naturally incline to think that it was his duty to protect his men?—A. Why, of course, he would protect his men.

Q. Sir?—A. Of course he would protect his men; there is no question about that; but I think any honorable, upright man, such as you speak of, would be an impartial judge in a matter of that kind, and if he found his men were wrong, he would be just as quick and willing to punish them as anyone else.

Q. Do you think he could be an impartial judge?—A. I think so; yes, sir.

Q. And you think any honorable, upright man would be an impartial judge?—A. Yes, sir; that is what I think.

Q. Major, if there were a dozen or half a dozen shots right close to B barracks that night, if there was such a thing, on what theory could you explain it?—A. Only that some men came down there and fired them.

Q. Came down from where?—A. I don't know.

Q. Well, you had your pickets out that night, didn't you?—A. I had a sentinel out.

Q. Well, sentinels?—A. Yes, sir; there was one sentinel there.

Q. Sentinels were scattered about the town?—A. About the post, sir.

Q. About the post?—A. About Fort Brown.

Q. How far out? Mention the outposts.—A. Are you speaking of the night of the 13th-14th?

Q. Yes; I am speaking of the night of the shooting.—A. Yes, sir; I can show you just where they were.

Q. Point out the spots.

Senator FORAKER. Before the firing.

(The witness here stepped to the map.)

The CHAIRMAN. Try to describe it in such a way that the reporter can take it down, so that it will be intelligible in print.

By Senator PERTUS:

Q. Call them out, so that the reporter can take them down.—A. Post No. 1, as it was called, was over at the guardhouse. The guardhouse is right here.

Q. Name it, so that the reporter can take it.—A. Post No. 1 was at the guardhouse; No. 2 was around C, B, and D Company barracks. He marched around those barracks, keeping the barracks on his left. No. 3 was around the line of officers' quarters, keeping those on his left. He marched around in this way. No. 4 was at the quartermaster's stables, coming up as far as the commissary, and they have got this building marked "granary," but that is wrong. He came up to that granery marked there. He marched around in through there. That was No. 4. Those were the posts that were on that night.

Q. Major, you had three in the garrison road, hadn't you? You have mentioned that there were three in the garrison road.—A. No, sir; there were none in the garison road. There was no one here. Senator, at all.

Q. Where was his station?—A. The one man marched right around these quarters.

Q. And that was all that there was on that side?—A. That was all that was there; yes, sir.

Q. One man on the whole of the garrison road, in front of the barracks?—A. In front and rear, Senator. He walked completely around. He walked in this interval between the vacant barracks and C, and came down here to this end of D, around D, and back again.

By Senator SCOTT:

Q. He came down here, in between the wall and the rear of the barracks?—A. Yes, sir; between the wall and the rear of the barracks.

By the CHAIRMAN:

Q. Move that pointer slowly around there, so as to mark it out. (The witness did as requested.)

By Senator PETTUS:

Q. Was there no man on guard in the barracks?—A. No, sir. The noncommissioned officer in charge of the barracks is detailed from day to day. He has to remain in the barracks during the twenty-four hours, but he is not awake at night.

Q. Then you had but one man near the barracks at all on guard that night?—A. Yes, sir.

Q. Well, Major, does not your theory involve the question that there were not any soldiers down as low as Fourteenth street that night, that there was no soldier who fired a shot below Fourteenth street or on Fourteenth street?—A. I don't know, sir. I have never stated that was the theory.

Q. Sir?—A. I have never stated that there was no one on Fourteenth street. I have stated that I did not believe those soldiers did it.

Q. I understand that; but my question is, Does not your theory that your soldiers did not do it involve the proposition that there was not any of them that fired a shot on that road?—A. Yes, sir.

Q. That not one of them fired a shot west of the north and south line?—A. Yes, sir.

Q. Your theory is that no soldier fired a shot that night prior to this row or in it?—A. Yes, sir; No. 3 or No. 2 sentinel, who gave the alarm, he fired three shots.

Q. Yes; I remember his testimony. He said he fired three shots.—A. Yes, sir.

Q. Well, is that the way to give an alarm?—A. Yes, sir.

Q. If there is something serious going on, the soldier is authorized to fire his gun?—A. Yes, sir; he fires his piece and calls for the guard, adding the number of his post.

Q. Was there no guard down in the city that night?—A. No, sir. Do you mean soldiers?

Q. Oh, yes; I am speaking of the soldiers.—A. Oh, no; I had no right to put any men in town.

Q. Have you any theory as to who did this shooting?—A. No; I can not say that I have any theory. I do not know.

Q. Well, you do not know. I did not suppose you knew. Nobody thought of your knowing, but I am asking you, have you a theory?—A. I don't know, I am sure, sir. The theory—well, I have not any theory. I simply do not know, Senator. I have no theory. I do not think the men did it, and I think—

Q. Have you any opinion at all?—A. Yes, sir; I have an opinion about it.

Q. What is it?—A. I think some people of the town did that shooting.

Q. The people of the town?—A. Yes, sir.

Q. Did the shooting?—A. I think so.

Q. What do you suppose was the motive for the people of the town in doing the shooting?—A. I don't know.

• By Senator OVERMAN:

Q. Have you any opinion about it?—A. No, sir; I have no opinion about it at all.

By Senator LODGE:

Q. Have you any evidence?—A. No, sir; not a bit, Senator; not a bit.

By Senator PETTUS:

Q. Well, do you doubt that these houses were shot up, as it has been testified?—A. No, sir.

Q. And you think the people of the town did all that shooting?—A. Yes, sir; I do.

Q. When did you come to that conclusion?—A. At the end of my trial, and after reading the testimony that had been produced before this committee.

By Senator OVERMAN:

Q. Major, do I understand you that you wish this committee to understand from your testimony that you are convinced to a moral certainty, without any doubt in your mind—A. Oh, no.

Q. That those soldiers did not do that shooting?—A. Yes, sir; I do not think the soldiers did the shooting.

Q. Have you any doubts about it?—A. No, sir; there is not a doubt, I do not think, in my mind about it at all.

Q. You do not think—are you convinced to a moral certainty, so that you have no doubt about it?—A. I could be convinced, of course if it is shown—

Q. Are you now convinced to such an extent that in your mind it is a moral certainty, that you have no doubt whatever, that your soldiers did not do it? Could you say that now?—A. That is putting it in the strongest way in the world.

Q. Well, that is it.—A. I do not think that my men did that shooting, Senator.

Q. But you have not answered my question. I want you to answer that question.—A. Yes, sir; I will say that I do not think they did it.

Q. I do not ask you what you think about it. Are you convinced in your own mind from the evidence, from all the circumstances?—A. Yes, sir; I am convinced.

Q. To a moral certainty, to the extent that you have not a single scintilla of doubt, that your soldiers did not do that shooting?—A. I think I can answer that in the negative; yes, sir; that is what I think.

Q. I do not ask you what you think.—A. Yes, sir; that is what I think.

By Senator PETTUS:

Q. Major, will you explain to the committee how those particular houses happened to be shot as they were on any theory? I do not

mean on the facts that you know, but what is your theory about it? What is your belief from what you know as to who did it?—A. Well, I don't know, Senator, how they came to be shot up.

Q. You could not?—A. I have told you that I did not believe my men did it; further than that I do not know, sir.

Q. But your belief is, without knowing, that the citizens of Brownsville did the shooting?—A. I think so.

Q. Have you a belief as to what part of the citizens did it?—A. No, sir.

Q. Now give us your reason for believing that the citizens of the town did it?—A. There was shooting down there; there were houses shot into; there was a man killed; there was a man wounded. I do not think that my men did it; therefore I must think that the people of Brownsville did it.

Q. That is your only reason?—A. That is the only reason, sir.

Q. You think your men were innocent?—A. I do.

Q. Therefore the town was guilty?—A. Yes, sir.

Q. That is your argument or theory?—A. Yes, sir.

Q. Major, what convinced you of that, contrary to your first opinion?—A. I have tried to tell you, Senator. It was the evidence that was produced before my court, and that was produced here.

Q. Major, do you think it possible that all these witnesses who have testified as to the shooting and as to the identity of the parties who did the shooting, could have been false?—A. I hate to think anybody is false, Senator, but I can not believe the way they have testified.

Q. You can not believe them?—A. No, sir. I hate to make a statement of that kind, but still it conflicts entirely with my own belief on the matter.

Q. And you changed your opinion by reason of what occurred on the trials?—A. Yes, sir; my own and this investigation.

Q. You do not think it is possible that as upright a set of men as you commanded, every one of them that have testified, have agreed on one story, and stuck to it?—A. I do not think it is possible for that number of men, sir.

Q. You do not think it is possible?—A. No, sir; I do not.

Q. But you would rather believe them than all the witnesses that have testified on the other side?—A. Yes, sir; that is my belief.

Senator PETTUS. I am through with the witness.

By Senator WARNER:

Q. Major, as I understand, without going over your former testimony again, those guns, in your opinion, were high-power guns?—A. Yes, sir; I thought so.

Q. You never have had occasion to change that opinion?—A. No, sir; I still think so.

Q. Now, Major, after the shooting of course you were very much concerned to find out the cause of it and the parties who did the shooting?—A. Yes, sir.

Q. That was the most important matter that you had?—A. Yes, sir.

Q. And one of the most important you ever had in your life, was it not, Major?—A. Yes, sir.

Q. You had been in command of that battalion how long?—A. Over two years, sir.

Q. You were very much attached to them?—A. Yes, sir; I was attached to the men.

Q. They were a fine body of men?—A. Yes, sir.

Q. Well disciplined?—A. I considered them so.

Q. And you were proud of them?—A. Yes, sir.

Q. That was the condition, was it not?—A. Yes, sir.

Q. Now, this shooting occurred, and you heard the high-power guns. That necessarily made some impression on your mind?—A. Yes, sir.

Q. As to the parties doing the shooting, and it necessarily followed from that, did it not, Major, that possibly some of your men were engaged in that shooting?—A. No; I did not think so that night.

Q. I did not ask whether it was a belief or not, Major, but whether the firing made an impression, not that it amounted to a belief, that some of your men might have been engaged in that shooting, from the character of the guns being used?—A. No, sir; it did not strike me that night; I did not think of it in that way—

Q. Well, now, Major—pardon me; go ahead; I do not want to interrupt you.—A. I was only going to say, as I have stated before, that I had in my mind the Evans incident, and I thought a lot of people had come up there and were indiscriminately shooting into the barracks. That was the first thing that went through my mind, and I held that thought until the next morning.

Q. Now, I will come down to that, Major. That night you retired about 3 o'clock in the morning?—A. I did.

Q. Without going over your testimony, in the intervening time between the cessation of the shooting and the time that you went to your quarters to bed you had made inquiries, had you not, an investigation, the best you could?—A. Yes, sir.

Q. You had talked with whom?—A. I had talked with all the officers. I had talked with a good many of the men. I had talked with Howard, with Tamayo; I had talked with Mayor Combe, who came in, if you remember, about 1 or half past 1 o'clock in the morning.

Q. Yes.—A. I had talked with them all.

Q. But Mayor Combe at that time had found no shells, and had said nothing of any shells.—A. No, sir; not at that time.

Q. Mayor Combe at that time had said nothing about anybody seeing your men or the circumstances under which they saw your men?—A. Yes, sir; he told me that night that one party of five had been seen together, and one of three.

Q. Where?—A. Well, I don't think that he stated in what part of the town it was.

Q. But you knew the character of the night then?—A. Yes, sir.

Q. Now, then, you went on and you saw Tamayo—this scavenger?—A. Yes, sir.

Q. He told you his story about it?—A. Yes, sir.

Q. And a good many of your men?—A. Yes, sir.

Q. The next morning you got up about 5 o'clock?—A. Yes, sir; certainly as early as that.

Q. And the first thing that you did was to examine the barracks?—A. Yes, sir.

Q. You commenced with which barracks?—A. I commenced with C Company barracks.

Q. That is, on the east end of the barracks?—A. The east end.

Q. You examined downstairs and upstairs?—A. Yes, sir.

Q. As I understand from your testimony, you examined all except the roof?—A. Yes, sir.

Q. You examined B barracks thoroughly?—A. Yes, sir.

Q. You examined D barracks thoroughly?—A. Yes, sir.

Q. Both the upper and lower galleries?—A. Yes, sir.

Q. To see if there were any physical evidences of your post having been attacked?—A. Yes, sir.

Q. You found none?—A. No, sir.

Q. Did that make no impression upon you whatever?—A. Yes, sir; it did then.

Q. What impression did that make upon you, Major?—A. That impression—I commenced to think then, that maybe Doctor Combe's report to me the night before might have been true, that my men did the firing.

Q. Notwithstanding that you had had the report of your commissioned officers and noncommissioned officers, the scavenger, and the guard the night before?—A. Yes, sir.

Q. And you heard their statements?—A. Yes, sir.

Q. And yet, with the character of your men before you, their discipline, and all of that, the physical fact presented to you the next morning led you to think—that is, from the examination of the barracks I am speaking of now—A. Yes, sir; I understand you.

Q. I want to get that first. There was nobody had said anything to you then as to the circumstances under which they had seen your men?—A. Simply what Mayor Combe had told me, nothing more than that, at that time.

Q. How long did it take you to make this inspection of the barracks?—A. Well, I presume it was half or three-quarters of an hour, I don't know exactly, sir.

Q. It was daylight, of course, or you could not have inspected them?—A. Yes, sir; I waited until it was daylight.

Q. Half or three-quarters of an hour—of course I do not expect you to know exactly.—A. Yes, sir; that is about it.

Q. You inspected those barracks, and you found no evidence at all?—A. None at all.

Q. Of any attack upon the fort?—A. Of any bullet marks.

Q. Well, of any attack on the fort? You found no evidence of any attack on the post?—A. No, sir; there were no scars, bullet scars, of any kind.

Q. Well, I do not care about scars, or anything else—A. And that was the only thing I was looking for.

Q. Major Penrose, I asked you a question; I do not care whether they were scars or anything else. Did you find from the physical examination any evidence whatever that the post had been attacked?—A. No, sir; not at all.

Q. It was then that you directed Captain Macklin to make an examination for shells?—A. Yes, sir.

Q. After you had gotten through the inspection of the barracks—that is correct?—A. That is correct.

Q. Where were you when you directed Captain Macklin to make this inspection?—A. I was right at the gate. I met him at the gate.

Q. Standing at the gate?—A. Yes, sir.

Q. And he went along by the wall?—A. Yes, sir.

Q. Which way did he go first? Did he go down by the river front first?—A. No; he went up towards the alley.

Q. He went up towards the alley, along the garrison wall?—A. The garrison road.

Q. And you stood there?—A. I stood there for a while.

Q. Right at the gate?—A. Just inside of the gate. I don't know that I was exactly at the gate. I think I was inside the gate. I don't think I went out.

Q. You would not undertake, of course, at this time, to tell where you were standing every minute?—A. No, sir; not at any time.

Q. But this was some time between 5 and 6 o'clock you were standing there?—A. Yes, sir; it was between 5 and a little after 6, I think, probably.

Q. You were there until after 6?—A. I think it was a little after 6; yes, sir.

Q. Now, Captain Macklin came back to you with certain shells and clips?—A. Yes, sir.

Q. Did you see him pick those shells and clips up?—A. No, sir; I did not. I do not recall seeing him pick them up at all.

Q. And when he showed you those shells and clips—this was after you had made the inspection of the barracks—and with all your attachment to the men and confidence in them, you said to Captain Macklin, "My men have done this shooting?"—A. Yes, sir; I said, "I believe my men have done this shooting."

By Senator HEMENWAY:

Q. May I ask you right there, did he tell you then that he found them within a space of about 18 inches or a foot?—A. Not at that time, sir.

By Senator WARNER:

Q. I was going to ask that question. What conversation did you have with Captain Macklin as to where he found those shells?—A. I asked him where he found them, and he told me along the wall, as I recall it, from the oil house to the alley.

Q. That he had found those shells along the wall from the oil house to the alley. You are familiar with the location. That would be a space covering how many feet?—A. Oh, maybe 60 or 70 feet.

Q. And it was at this same conversation he told you about finding one shell in the mouth of the alley?—A. Yes, sir.

Q. And that he had pressed that into the ground with his foot?—A. Yes, sir.

Q. Because he saw other men, other parties, in the alley, he thought, picking up shells?—A. Picking up shells; yes, sir.

Q. Why did he say that he thought it was best for him to press that into the ground?—A. He did not say, Senator. He simply told me.

Q. Did you ask him?—A. No, sir; I do not recall that I asked him at all why he did it. My mind was so taken up, probably, that I did not think of that. It did not occur to me.

Senator OVERMAN. May I ask a question?

Senator WARNER. Yes; certainly.

By Senator OVERMAN:

Q. He told you he found those shells along the wall, from the oil house to the mouth of the alley, a distance of about 60 feet?—
A. I think that is about the distance.

Q. That was immediately after he found them?—A. Yes, sir; as he came in the gate with them.

Q. Some time after that he told you he found them within a space of about 18 inches?—A. I do not say that he said that he found all of them. He found some of them that way.

Q. You prefer to accept his later statement than the statement he made immediately after finding them?—A. What was that, sir.

Senator LODGE. That he had found them along the wall.

By Senator OVERMAN:

Q. You said that was the one thing convinced you that your men did not do it, because those shells were found within a space of 18 inches.—A. Yes, sir; that was afterwards.

Q. I say you prefer that statement of Captain Macklin, made some time after, that he found them within a space of 18 inches, than the statement that he made immediately after he had found them, that he found them within a space of 60 feet?—A. Well, he did not say anything to me about finding those in that small space at first.

Q. If I understand you—A. My impression is, if I can explain it, sir, that it was from the oil house up to the alley. Now, that distance may be more than 60 feet, or less, I am not sure, and I do not wish to be quoted as saying that I am sure of it. He just simply said that he found them along there, and that he found this one shell in the mouth of the alley, which he put his foot on. It was after that, but I don't recall whether it was that day or the next day that he told me he found them in that circle.

Q. You preferred to accept his later statement than the one he made down there?—A. I accepted them both, Senator.

Q. Didn't he say he had found them along the wall?—A. Well, yes.

Q. From the oil house to the alley?—A. Yes.

Q. And the next statement that he found them within 18 inches?—
A. I don't think he found them all there. He had picked up some along the wall, and he found these others that were there together.

Q. Go ahead.—A. I am sure he did not make that statement—that he found them all there.

By Senator WARNER:

Q. Then, to go back, to follow this along logically—A. Yes, sir.

Q. When those shells were exhibited to you, it was your conviction then that some of your men were connected with the shooting?—
A. Yes, sir.

Q. Now, you continued to examine into it for days?—A. Yes, sir.

Q. And continued up to the 15th of August, two or three days after the shooting, when you made your report?—A. Yes, sir.

Q. And notwithstanding the character of your men and their good discipline, to give you the benefit of your exact language, you said:

Were it not for the damaging evidence of the empty shells and used clips, I should be of the firm belief that none of my men was in any way connected

with the crime; but with this fact so painfully before me, I am not only convinced it was perpetrated by men of this command, but that it was carefully planned beforehand.

A. Yes, sir; that was my report.

Q. At that time you had examined every noncommissioned officer. had you not?—A. On the 15th; yes, sir; I think I had at that time.

Q. And you had examined a great many of the soldiers?—A. No. I can not say that I had on the 15th examined a great many of the soldiers. I am not sure that I examined all of the noncommissioned officers at that time, but I had examined a good many of them and some of the enlisted men.

Q. At that time had Captain Macklin made any further report to you as to where he found the shells?—A. I think that he had; I am not sure about that.

Q. And the circumstances under which he had found them?—A. My mind is hazy, Senator, about the time he told me about the shells being in that position.

Q. That was quite an important matter, though, Major?—A. And I believe that it was after that report, but I am not sure, sir; I think that it was.

Q. A month afterwards, or such a matter, in September, you made another report, didn't you?—A. Yes, sir.

Q. Captain Macklin had told you before that, hadn't he?—A. Oh, yes. He had told me before that, certainly before that.

Q. About these shells?—A. Yes, sir; this was before that.

Q. And you had continued your investigation clear up through, or over a month, Major?—A. Yes, sir. I understand what you mean.

Q. I think it was the 20th of September, or something of that kind?—A. Yes, sir; I understand what you mean perfectly.

Q. I do not intend to commit you to my statement of the date, but you had gone on with all this investigation, and you were still of the opinion, were convinced that your men had done the shooting?—A. Yes, sir.

Q. And you made the drastic recommendation of discharging that battalion by piecemeal?—A. I did.

Q. That is, 20 per cent of it one month, 20 per cent the next month, 20 per cent of it the third month, and 20 per cent the fourth month?—A. Yes, sir.

Q. Under the firm conviction that they were guilty?—A. Yes, sir.

Q. They all had denied it to you, had they not?—A. Every one of them.

Q. Why didn't you believe them?—A. Because there had been nothing at that time to make me believe anything to the contrary, sir. I had received the reports of the shooting up of this town, and I believed them at that time.

Q. You know the town was shot up?—A. Oh, yes. I will express myself in this way, that I had not heard any of the testimony relating to it. I had better put it that way, and, as I stated here before, up to the time of my court-martial, and even during a portion of it, I felt, sir, that those men were guilty. It was then that I commenced to change my opinion.

Q. Now, Major, if it were not for the fact that witnesses swore that they saw your men on that night, and you knowing the character

of the night it was, and your disbelieving that kind of evidence, you would still be of the opinion that your men did the shooting?—A. Yes, sir; I could not help it.

Q. Could not help it; and it was the evidence of parties who said they saw them that changed your opinion?—A. Yes, sir.

Q. That you wish to be understood fully?—A. I do; yes, sir. I wish to state that that was—

Q. Have you any explanation or qualification to make of your answer, Major? If you have, I want you to make it.—A. No, sir; I can not say that I have anything. That was one of the things. You must remember, Senator, that I said that the experiments that were conducted with those rifles, and the 11 shells that were claimed to have been fired from this rifle that was in the box, that we know was packed up at Fort Niobrara and never opened until the morning of the 14th, that has had a great deal to do with it.

Q. Whether those had been opened until the morning of the 14th, Major, would depend upon the evidence of the very men who appeared before you and the other officers, and testified that they had had nothing to do with the shooting, and knew nothing of it?—A. Oh, no, sir; pardon me on that. Lieutenant Lawrason testified to that.

Q. Lieutenant Lawrason put them in the box, but they were entirely in charge of the noncommissioned officer?—A. They were in charge of the noncommissioned officer, that is very true; but he testified distinctly that the box had not been opened; that he knew it had not been opened; that he opened it himself that morning, the morning of the 14th.

Q. You mean that Lieutenant Lawrason testified that he put them in the box, but Lieutenant Lawrason did not testify that that box had never been opened from the time it was closed at Fort Niobrara until he opened it at Fort Brown?—A. Yes, sir; that was the testimony.

Q. You rely upon that belief of the testimony? That had an effect upon you?—A. A very decided one, sir.

Q. And up until that time you had no doubt?—A. Now, let me see whether I understand you about that, sir. Up to—

Q. Up to the close, I do not want—

Senator HEMENWAY. I should think that the statement of the witness ought to go as to when his doubt began. He has repeatedly stated—I hate to drop in here to protect an officer of the United States Army, but it seems necessary—he has repeatedly stated that all of these statements together gradually changed his belief, and now I object to a single proposition being put as to his being asked if that alone changed his opinion.

Senator WARNER. I am not doing that.

Senator HEMENWAY. If you are not doing it, then my objection does no harm.

Senator WARNER. I certainly do not intend to. (To the witness.) As I understood your testimony, Major, before, without turning to it, you remained of this opinion until the close of the evidence for the prosecution in your court-martial?

The WITNESS. I think if you will recall, sir, that I corrected that answer; said that it was undergoing a change during the prosecution.

Q. During the prosecution?—A. Yes, sir; you might say it commenced with the beginning of the prosecution.

Q. I want your statement in full.—A. That is it. I think that is the statement given before. I think you will find that in the printed evidence.

Q. Very well. I shall not take the time to look it up. I have no reason to contradict your statement about that.—A. That is what I think I said.

Q. Then it went on up to that time, and you had talked with General Garlington when he was out there?—A. Yes, sir.

Q. And with Colonel Lovering?—A. Yes, sir.

Q. Was Major Blocksom there?—A. Yes, sir.

Q. Had gone over all the facts pertaining to it?—A. Yes, sir.

Q. And you never expressed a doubt, did you, to either one of those officers but that it was your men who did this shooting?—A. No, sir; that was all before my trial.

By Senator PETTUS:

Q. Major, I understand, and I want to know if I understand correctly, that you have not changed any matter of fact that you testified to heretofore. You do not intend to change any matter of fact? It is only your opinions that have changed?—A. I do not intend to change anything, sir.

Q. Sir?—A. I do not intend to change anything.

Q. You have changed your opinion, haven't you, Major?—A. No: I gave my opinion here before.

Senator LODGE. He means since the beginning.

By Senator PETTUS:

Q. I mean from the start.—A. Oh, yes; I changed, from the time of the shooting at Brownsville.

Q. I want to know if you have changed any facts, outside of opinions.

By the CHAIRMAN:

Q. I think what the Senator wants to know is, whether you wish to correct any statements of fact that you have made heretofore.

By Senator PETTUS:

Q. Do you mean to contradict anything you stated as a matter of fact heretofore?—A. No, sir; I do not know that I have.

By Senator WARNER:

Q. One or two other questions. Some of your soldiers wore leggings and some did not?—A. Yes, sir.

Q. And they habitually went that way; some of them having short trousers with leggings, did they?—A. Trouser-breeches—not habitually; no, sir. They did not go habitually that way. Those men were permitted to wear their long trousers when they were off duty: they still had some of them and I wanted to let them wear them out.

Q. Some of them wore them that way and some did not?—A. When they were off duty, sir; never on duty.

Q. And these blue chambray shirts?—A. Chambray shirts; yes, sir.

Q. Blue?—A. Yes, sir; blue shirts.

By Senator OVERMAN:

Q. Did some of them wear caps at some time?—A. They should not have had any caps; no caps allowed at all.

Q. They had them?—A. Yes, sir; they had the full-dress cap.

By Senator WARNER:

Q. Did you know the fact—it is on that point—that it was alleged that the cap of one of the soldiers had been found? What was his name?—A. The clerk of C Company.

Q. Askew?—A. Askew. I was told that there was a cap found in the street with Askew's name in it.

Q. You knew that he produced two or three caps to show that his cap had not been taken?—A. He produced three caps and two hats, I think.

Q. And one of the caps he produced you found, from your investigation, was about three sizes too large for him?—A. No, sir; I do not know that. I was there when the caps were brought in—the caps and hats—and I do not recall that there was any one that was too large for him.

Q. I do not assert that as a fact. I ask you if you remember that it was?—A. No, sir; I do not.

Senator FORAKER. Do you claim that there is any testimony about that?

By Senator WARNER:

Q. I do not claim that as a fact, and I take your testimony when you were on the stand before.—A. Yes, sir.

Q. My remembrance is that your testimony now is substantially the same as it was then.—A. Yes, sir.

Q. And with reference to those men cleaning guns on the barracks, of course when you were down under the barracks, whether there were men cleaning guns there on the upper gallery, you could not tell yourself?—A. No, sir; if there had been some men directly above me, I could not have seen them, but I do not think that was possible. I do not think that was possible for them to be cleaning rifles at the time I was making that inspection and I not see them.

Q. When this question was asked you by Senator Foraker with reference to those men, and whether you could see them or not, with reference to the seven men, you said something.—A. Yes, sir.

Q. What connection did that have with it at all?—A. Nothing—well, in this way, that after those seven men were inspected by Captain Lyon and myself they were directed to join their company, which was then on guard.

Q. That was after the inspection?—A. It was after the inspection. That was probably half past 6 in the morning.

Q. That is what I understood. I wanted to get it clear.—A. We had the quartermaster-sergeant get us a ramrod—one of these ramrods like this—and Captain Lyon and I put that rag through each one of these rifles. Now, it is possible that might have been seen, but it was not on the porch. That was in front of B Company barracks.

Q. But we were talking about the porches, the galleries, as you call them.—A. No, sir; there was no one there when I was there, and I do not think it could have been.

By Senator PETTUS:

Q. You spoke of a gun locked up at Fort Brown, one which was said to have been tested at the arsenal, which was said to have been fired a number of times?—A. Yes, sir.

Q. Have you ever noticed any inaccuracy in the marks of the guns, the mark that the bullet leaves on the shell?—A. On the shell?

Q. Yes.—A. No, sir; I have not. I have never tried any experiment of that kind at all.

Q. Have you heard of any?—A. Yes, sir; such as I have read of this experiment that was made at the Frankford Arsenal.

By Senator BULKELEY:

Q. Springfield?—A. Springfield Arsenal.

By Senator PETTUS:

Q. Have you heard of any mismarks in the manufacture of those guns, outside of that one?—A. I don't know that I understand what you mean, Senator.

Q. We have it here stated from the arsenal, and by the officers who made these guns and the shells, or who ordered them made, that one of those guns that was locked up fired a number of those shots.—A. Yes, sir.

Q. Well, I want to know if you have ever heard of any inaccuracies in those marks that are made on the shells?—A. No, sir; if I understand you right, I don't know that I ever have.

Q. That is the only one you ever heard of?—A. As I understand it, sir, they picked out four rifles that shells were supposed to have been fired from, that they picked up in the streets of Brownsville. They were determined by means of a microscope, principally from the position of the firing pin striking the cap, the different location of that, and I believe some marks of the ejector, and by that means they were able to locate different rifles as having fired different shells. I do not know that there has been anything to change that at all.

Q. You do not believe in that report, though, that was made by the officers who made the guns?—A. Oh, yes; I do.

Q. You do?—A. Why, certainly I do. I have no reason—

Q. I understood you to say that that gun that they said was fired there was locked up all the time?—A. So it was.

Q. And therefore could not have been in that firing?—A. That is what I stated, sir; but I do not see that that changes my statement at all, if I understood you right.

By Senator BULKELEY:

Q. You mean it could not have been fired out of the gun that night?—A. It could not have been fired out of the gun that night.

Senator FORAKER. They do not say it was fired that night.

By Senator PETTUS:

Q. That is what you mean?—A. No, sir; I do not think it could have been fired out of the gun that night.

Q. It could have been fired at some other time, you think?—A. I think it was fired—it was fired at the range at Fort Niobrara, Nebr.

Q. How could that have been fired at the range when it was locked up in the box all the time?—A. It was not, Senator. You do not

understand me. That rifle was used during the target-practice season of last year at Fort Niobrara; but before we left Fort Niobrara that rifle was locked up with other rifles, when brought down to Brownsville, and that was not opened until we got to Brownsville.

Q. Was not used at Brownsville at all?—A. No, sir; not used at Brownsville at all; was not even opened there.

Senator FORAKER. At this point I want to introduce and have printed in the record certain documents which have been received from the War Department. This is a report, with accompanying indorsements and papers, of an investigation made by F. H. French, lieutenant-colonel, of the Inspector-General's Department, United States Army, as to the allegations made before this committee that a number of Government rifles were defaced by destroying the numbers thereon, and that a number of rifles and a quantity of ammunition were sold or given away.

The documents referred to are as follows:

WAR DEPARTMENT,
THE ADJUTANT-GENERAL'S OFFICE,
Washington, April 27, 1907.

The COMMANDING GENERAL, SOUTHWESTERN DIVISION,
St. Louis, Mo.

SIR: I am directed by the Acting Secretary of War to inclose herewith the accompanying extracts from the testimony before the Senate Committee on Military Affairs relating to the affray at Brownsville, Tex., with directions that you cause a thorough investigation to be made of the allegations contained therein that a number of Government rifles were defaced by destroying the numbers thereon, and that a number of rifles and a quantity of ammunition were sold or given away. The investigation should include an inquiry as to the methods prevailing in certain organizations of the Twenty-sixth Infantry in regard to the care of and accountability for ammunition.

The testimony indicates that certain officers and enlisted men have probably been guilty of a violation of the sixtieth article of war, and, if such be the case, they should be brought to trial as provided for in that article. As the testimony adduced is partly hearsay, however, the Acting Secretary of War directs that you cause a thorough investigation to be made of the whole matter and that you take such action as the case demands, reporting to this Office the result of the investigation and the action taken thereon.

Very respectfully,

F. C. AINSWORTH,
The Adjutant-General.

[First indorsement.]

HEADQUARTERS SOUTHWESTERN DIVISION,
St. Louis, Mo., April 30, 1907.

Respectfully referred to Lieut. Col. F. H. French, Twelfth Infantry, inspector-general of the division, for investigation and report.

By command of Brigadier-General Williams:

W. P. BURNHAM,
Major, General Staff, Chief of Staff.

[Second Indorsement.]

HEADQUARTERS SOUTHWESTERN DIVISION,
INSPECTOR-GENERAL'S OFFICE.
St. Louis, Mo., May 21, 1907.

Respectfully returned to the adjutant-general, southwestern division, inviting attention to report herewith.

F. H. FRENCH,
Lieutenant-Colonel, Inspector-General.

[Third Indorsement.]

HEADQUARTERS SOUTHWESTERN DIVISION,
St. Louis, Mo., May 21, 1907.

Respectfully returned to The Adjutant-General of the Army Washington, D. C., inclosing report of Lieut. Col. F. H. French inspector-general, which has just been received.

From a reading of the report and conversation with Colonel French, it appears that Companies K and M, Twenty-sixth Infantry, were careless in the care of ammunition; that Company K had six surplus Krag rifles; that they have disappeared, and the evidence is not clear as to what became of them. That the quartermaster-sergeant of Company K sold 1,000 rounds Krag ammunition to Mr. Field, of Brownsville, Tex., and that that ammunition is still intact in original package; that the only person against whom serious charges would lie is the quartermaster-sergeant of Company K, who has been discharged and whose whereabouts is now unknown.

As this report has been urgently called for by wire from the War Department, it is forwarded without action or further remark as it is not considered expedient to delay the report in order to give the matter due and careful consideration.

W. P. BURNHAM,
Major, General Staff, Chief of Staff,
(In the absence of the division commander.)
HEADQUARTERS SOUTHWESTERN DIVISION,
INSPECTOR-GENERAL'S OFFICE,
St. Louis, Mo., May 21, 1907.

The ADJUTANT-GENERAL, SOUTHWESTERN DIVISION,
St. Louis, Mo.

SIR: I have the honor to submit the following report of an investigation of certain allegations regarding the defacing of Government rifles and the sale of rifles and ammunition at Fort Brown, Tex. This investigation was made pursuant to instructions contained in letter dated War Department, The Adjutant-General's Office, April 27, 1907.

The testimony was given under oath administered by me, and after completion in each instance it was read over to the deponent and by him pronounced correct. It will be found herewith.

The evidence shows that there were at least six Krag-Jørgensen rifles in K Company, Twenty-sixth Infantry, that were surplus—that is, in excess of the number for which the company commander was authorized. How they became so is not positively stated, but probably by the sinking of a boat on which the property was stored in the box a.

was being shipped near Nueva Caceres, P. I. These rifles—six selected ones—were not turned in to arsenal when the change was made to the Springfield model 1903, but after the numbers had been erased were placed on a high shelf in the company storeroom at Fort Brown, Tex. No further trace of four of them can be found, but the remaining two were seen later on in the company storeroom at Fort Sam Houston and then disappeared. None of the guns is around the company now, and I have not been able to get any clue as to the whereabouts of any of them. Corporal Ryan, Company K, Twenty-sixth Infantry, who, as artificer of the company, blotted out the numbers on the rifles, is with the company. He claims to have done this in obedience to orders from the then company quartermaster-sergeant, Joseph Cheesman, who was discharged the service in August or September, 1906. I have written to Cheesman's relative, as stated on the descriptive card, but have received no reply. Another address was furnished me to-day, but a reply to any letter sent this man is hardly probable, as he left with funds belonging to a library or reading association of his comrades. The evidence points to Cheesman as the man who sold 1,000 rounds of Krag ammunition to H. M. Field, of Brownsville, stating that the ammunition was obsolete, as the Krag rifles had been turned in and he had orders to sell it. Other ammunition was sold to Mr. Field by a discharged soldier named William Voshelle, who was employed as a teamster at Fort Brown, Tex., and claimed to have received it from Lieut. H. G. Leckie, Twenty-sixth Infantry. The latter testified that he gave the gun, a Winchester, to Voshelle, and some ammunition which he had bought, and that there might have been a few rounds of Government ammunition in the lot. The exact number of cartridges in this last transaction is uncertain. Mr. Field's clerk showed me the box from which he said they had sold a few, and it still contained, to the best of my judgment, about 500 rounds in cartons holding 20 each. The clerk also showed me the wooden box containing the thousand rounds which Artificer Ryan delivered at Sergeant Cheesman's orders. The box has not been opened, the seal being intact.

There was no evidence found to show that Capt. D. W. Kilburn, Twenty-sixth Infantry, the officer accountable for the ordnance at the time of the sale or disappearance, or any other officer, had knowledge of this property being surplus or of its being sold, nor could I get any information that such practices were carried on in any other companies.

But the evidence showed carelessness in looking after ammunition at Fort Brown, Tex., at the time the troops left that post to change station to Fort Sam Houston, Tex., by which some loose cartridges were stolen. The 200 rounds given to United States Commissioner Breager by Lieutenant Parker's order were used in firing a private gun belonging to the commissioner by some civilians, some officers, and some enlisted men.

At San Antonio, Tex., I was shown an affidavit or certificate from Capt. J. R. Church, Medical Department, who is now in Cuba, denying that he had had a surplus gun given him; this paper was forwarded to the War Department in reply to a letter from the Chief of Ordnance reporting the irregularities as developed by the Senate committee and requesting that an explanation be required. Lieu-

tenant Schmidt has resigned from the service and his present post-office address is not known.

The testimony of Capt. D. W. Kilburn, Capt. H. E. Ely, First Lieut. Mack Richardson, First Lieut. G. S. Gillis, Second Lieut. H. G. Leckie, all of the Twenty-sixth Infantry; of First Sergt. F. G. Butler, Q. M. Sergt. J. A. Means, Sergt. C. A. McCarty, Sergt. Frank Wesner, Corpl. William Ryan, Artificer Noble Onan, Private Algeron Jebb, Private J. J. Barnett, all of Company K, Twenty-sixth Infantry; of Private Henry Watson, Company M, Twenty-sixth Infantry, and of Charles Rose, a civilian, was taken at Fort Sam Houston, Tex.; that of H. M. Field and Conrad L. Cloetta at Brownsville, Tex.; that of Capt. C. F. Bates, Twenty-fifth Infantry, and of Post Q. M. Sergt. E. I. Sharp at Fort Bliss, Tex., and of First Lieut. Allen Parker, Twenty-sixth Infantry, at St. Louis, Mo.

United States Commissioner Creager and Mr. Fred Starke had left Brownsville, Tex., to go to Washington prior to my arrival and their testimony could not be taken.

Very respectfully,

F. H. FRENCH,
Lieutenant-Colonel, Inspector-General.

INVESTIGATION BY LIEUT. COL. F. H. FRENCH, TWELFTH INFANTRY, ACTING INSPECTOR-GENERAL, INSPECTOR-GENERAL SOUTHWESTERN DIVISION.

Capt. DANA W. KILBURN, being sworn, testified as follows, questioned by Col. F. H. French, Twelfth Infantry:

Q. What is your name, rank, and regiment?—A. Capt. Dana W. Kilburn, quartermaster, Twenty-sixth Infantry.

Q. How long have you been regimental quartermaster?—A. Since July 14, 1906.

Q. What was your command before that time?—A. Company K, Twenty-sixth Infantry.

Q. From what time to what time did you command Company K?—A. From March 21, 1901, to April 1, 1903, and from January 25, 1904, to April 2, 1906; and from April 2, 1906, to May 31, 1906, I was carried in command of the company, but was actually in command of the post of Fort Brown, Tex., and First Lieut. Allen Parker, Twenty-sixth Infantry, was in actual command of the company. I left Fort Brown, Tex., on June 2, 1906, for Fort Sam Houston, Tex.

Q. What orders or instructions did you have for your company in regard to issuing ammunition to enlisted men?—A. No ammunition was issued to enlisted men except on my orders, except in cases where they had hunting passes. It was customary at Fort Brown to allow them to take a reasonable amount of ammunition with them, the amount depending upon the length of time they were to be away.

Q. Did they have any instructions about turning in surplus ammunition after returning from the trip?—A. Not to my knowledge—that was left entirely with the quartermaster-sergeant, but I supposed that the surplus would be turned in, but I never gave instructions to that effect.

Q. How about ammunition for target practice—what was the manner of issuing?—A. The artificer with the quartermaster-sergeant would take the ammunition out to the point of firing and each man as his name is called would get a box of ammunition and go to the firing point, and after firing return his unused shells and clips and they would be kept and put in the sling cells at once.

Q. Do you know of any sale of ammunition in your company or in any other company for the benefit of the company fund or for any other purpose?—A. No, sir; most emphatically, no.

Q. Either the Krag or Springfield ammunition.—A. No, sir; I do not.

Q. Does your answer refer to any sale to either H. M. Fields, of Brownsville, or Mr. Creager, the United States commissioner, or Mr. Fred Starke, of Brownsville?—A. I mean my answer to cover all the cases. I do not know of ammunition either being given away or being disposed of unlawfully by anyone.

Q. In your inspection of company quarters, did you ever make an examination of the men's lockers to see if they had surplus ammunition in the lockers, or did you ever see any surplus ammunition in their lockers?—A. I never noticed any in the lockers, but I do not remember of having all the property taken out to see what was in the lockers. I may have done so, but I do not remember any case now.

Q. Was any report ever made to you or did anything occur that would have caused you to make this examination for surplus ammunition?—A. No, sir.

Q. It has been testified at Washington that there were some surplus rifles in your company; that is, K Company. Have you any knowledge of any surplus rifles; that is, any rifles, either the Krag or Springfield, that were more than the property accountability, or were not on the papers?—A. No, sir; I have not.

Q. Neither kind?—A. Neither kind; no, sir.

Q. You were in command of the company in the Philippines?—A. For a portion of the time; yes, sir.

Q. Have you any knowledge of the sinking of a casco over there with Government supplies aboard?—A. Yes, sir.

Q. Were there any stores, to your knowledge, saved from that wreck?—A. Not to my personal knowledge; no, sir.

Q. When was this?—A. I am not absolutely certain as to the dates, but can tell you almost, because on account of my own personal movements about that time. About the 17th of September, 1901, I was ordered from Baao, Camarines Sur, to Nueva Caceres as a judge-advocate of a military commission, or a general court-martial, then in session at Nueva Caceres, P. I., and I turned the company over to First Lieut. William Crutts, of the Philippine Scouts, and on September 30 we got telegraphic orders for the one battalion to go to Samoa on account of the Balangiga massacre. I at once asked to be relieved from the court to go with my company. The company came down on cascos, or, rather, catamarans, which were constituted of barotos, with bamboo flooring between them, and First Lieut.—he was at the time second lieutenant—George S. Gillis, Twenty-sixth Infantry, was in command of my company and brought it down the river, where one river ran into another just below Nueva Caceres, where one of these catamarans ran onto a sunken pile and was upset, throwing the men and property into the river. The river was very

high at that time and three of the men were drowned. This catamaran had property from K Company, L Company, I Company, and M Company, Twenty-sixth Infantry. The next day—this was about 9 o'clock at night—the next day, so I was informed, although I did not go personally to the place, they made some attempt to recover the property. But if any property was recovered I never knew what it was. I know, however, that I and M companies, Twenty-sixth Infantry, lost all their books and clothing records because First Lieut. Wait C. Johnson, who was commanding M Company, had to make a certificate as to the clothing allowances for the men for the preceding six months.

Q. As a result of this wreck, or for any other reason, did your company have any surplus rifles?—A. No, not to my knowledge—to the best of my belief; no. The reason for this statement is that when I turned over the company property to Second Lieut. George S. Gillis on the 2d of April, 1903, there were no surplus rifles or surplus ammunition then in my company.

Q. There is a property book kept in the company?—A. Yes, sir.

Q. Are the guns issued to the men charged to them by number?—A. By number; yes, sir; and each man's number is kept on the bottom of his bunk.

Q. Now, can a man who is separated from the company for any reason and who is turning in his gun for any reason, get credit for his rifle if he does not turn in the numbered rifle which is charged against him?—A. No, sir; he would not. He would have to answer to me why, and what became of his other rifle.

Q. Have you at any time ever sold or given away any rifles?—A. No, sir.

Q. Have you any rifle in your possession that is not accounted for on the papers—I mean any rifle belonging to the United States?—A. No, sir.

Q. Did you give a rifle or sell a rifle to Captain Church, of the Medical Department?—A. No, sir; I did not. He was assigned to my company during the target-practice season of 1904, and he was at that time issued a Krag rifle and ammunition, which he kept in his quarters. When he left Fort Brown, in June, 1904, the rifle was turned in.

Q. That rifle was one of the regular property accountability?—A. Yes, sir.

Q. Were there ever any surplus rifles in the K Company?—A. Well, when we came back from the Philippines—or, rather, when the company went over there—it had 150 men in it; it was cut down to 106 and then it was cut again to 80, I think, and after one of these reductions I had about 15 or 20 rifles more than I had men in the company. Some time while I was at Fort Brown I requested authority, and got it, to ship these surplus rifles to the arsenal, and they were shipped. I am not absolutely positive whether they were shipped or whether I turned them over to Lieutenant Richardson at Fort Brown. My impression is that they were shipped.

Q. How about Post Quartermaster-Sergeant Sharpe; did you ever give him a rifle, or did you sell him a rifle?—A. No, sir.

Q. Or did you issue him a rifle?—A. I issued him a rifle because he was formerly first sergeant of the company and assigned to the company for target practice.

Q. He has since been made post quartermaster-sergeant?—A. Yes, sir. He was made post quartermaster-sergeant while I was away on leave, and left the company.

Q. Did you give or sell or issue to Lieutenant Schmidt a rifle?—A. He had one in his possession while he was officer of the company, but I did not sell it to him or give it to him, and to the best of my knowledge and belief that rifle was turned in to the company when he left.

Q. If it had not been turned in would you have been short in your accountability to the Government?—A. Yes, sir.

Q. Would you not have known it if it had not been turned in?—A. Yes, sir.

Q. Do you know anything about some ammunition being found at Fort Brown after the company left there?—A. No, sir. I left Fort Brown about a month before the company left.

ALGERNON JEBB, sworn and questioned by Col. F. H. French, Twelfth Infantry, testified as follows:

Q. What is your name, rank, company, and regiment?—A. Private Algernon Jebb, Company K, Twenty-sixth Infantry.

Q. Were you stationed at Brownsville in May and June, 1906?—A. Yes, sir.

Q. When did your company leave Brownsville and come here?—A. I believe they left there about the 5th of July.

Q. Were any men left behind at Brownsville after the company started?—A. Yes, sir.

Q. Were you in that party that was left behind?—A. No, sir; I came on with my company.

Q. What duty were you performing at that time?—A. Just the same duty as an original private.

Q. Not an artificer or anything of that kind?—A. No, sir.

Q. When your company left the barracks at Fort Brown, did you see any ammunition lying around loose or in bandoleers?—A. I seen lots of ammunition—no; I won't say lots, but I seen ammunition lying about the quarters.

Q. Loose or in bandoleers?—A. Just lying here and there, loose and in bandoleers; that is, I seen one or two bandoleers lying outside the quarters, but I did not suppose there was any ammunition in them; that is, bandoleers on just one side.

Q. You testified before the Senate committee at Washington a month or two ago—A. Yes, sir.

Q. In your testimony before the committee you gave evidence regarding going to see Mr. Fred Starke in reference to the sale of ammunition?—A. Yes, sir.

Q. I want you to repeat that, or tell me what it was.—A. I will tell you, Colonel, if I have to repeat the statement, I will repeat it just the same as I told it to the Senate committee.

Q. Well, just tell me about it in your own language.—A. Well, I was informed that K Company had extra ammunition, that is, Krag ammunition, to sell, and I asked Mr. Starke—well, I says, I might as well repeat the whole thing—I was on special duty; had been ordered by the commanding officer to ship to Point Isabell, understand?

Q. Go ahead.—A. And in coming back I met Mr. Starke, and I asked Fred Starke, "Do you want to buy any ammunition?" He says, "Yes; I want to buy ammunition." I says, "What you willing to give for it?" "Well," I says, "I don't know how much there is or anything about it, but I have got the authority," I says, "to ask you if you want to buy it." He says, "What you want for it?" And I says, "I want a cent and a half." "Can't give you a cent and a half," says he; "give you cent a round for it." That was right in front of the post-office, and I says "I will see the parties about it; if they want to sell it to you all right, and if they don't all right." I don't believe the ammunition was ever sold to Mr. Starke at all. This is the statement I made before the committee—Mr. Starke asked me just as I said—I asked Mr. Starke did he want to buy any.

Q. Was there any ammunition sold to Mr. Starke?—A. Not that I know of; not that I know of.

Q. Who told you that the company had ammunition to sell?—A. Well, it was Corporal Ryan, Artificer Ryan he was at that time; he is now corporal.

Q. Did he authorize you to sell any?—A. No; he did not authorize me to sell any; he simply stated the quartermaster-sergeant told him he had surplus ammunition to sell. He did not authorize me to sell any.

Q. Have you ever sold any ammunition?—A. No, sir; I have not. I never did.

Q. Have you ever given any away?—A. Yes, sir.

Q. To whom?—A. Well, I have given it to my friends, rangers, etc.

Q. Were you not accountable for this ammunition that had been issued to you?—A. No, sir.

Q. How did you get it, then?—A. In the first place, after leaving the target range, I was detailed by Major Cook to drive a team for Lieutenant Harris, of the Twenty-sixth Infantry, who was in charge of a party for surveying—that is, mapping service—I don't know what you call it. Well, we was issued ammunition by the ordnance officer, and Sergeant Hopkins gave me a number of rounds of ammunition. I then went to my quartermaster-sergeant, K Company, Twenty-sixth Infantry, and says: "I have got a gun. I have got a Krag gun," says I, "Will you give me some ammunition?" "Yes, all you want." I got about 50 rounds from him. He says to me, he says: "When you want any more, come back here and get it." That is why I say it was plentiful. I always got all the ammunition I wanted. I was on detail ninety days with Lieutenant Harris—three months.

Q. To whom did you give this ammunition?—A. Well, I can't call the rangers' names, except Sergeant McCauley, who was stationed at Harlingen. I can not call the other rangers' names.

Q. You gave it to some rangers, did you?—A. Yes, sir. They came and said to me, "Jebb, have you got any ammunition," and I says, "Yes, I have got ammunition." They said, "We would like to have the whole outfit, wagon and all." I says, "Do you want some ammunition?" He says, "Yes." They were willing to take a box—20 rounds in a box. I told them to go to the jockey box and help themselves to it. I carried out about 120 rounds in the jockey box—I can't say 120 rounds—I carried five or six boxes, and then I

carried one box in the wagon that we carried for shooting purposes, such as anything we wanted to shoot—jack rabbits, or anything like that.

Q. Did you give any to any other persons than to the rangers?—
A. No, sir; I do not believe I did.

Q. What kind of rifles were you armed with at that time?—
A. Krag carbine. We started out with a Krag rifle, the same kind the infantry use, but we turned it in and got a carbine.

Q. Turned it in where?—A. Turned it in to the ordnance officer.

Q. Where?—A. At Fort Brown.

Q. Why did you turn in the rifles and take the carbines?—A. We carried the carbine because it was better for our purposes for shooting game while we were on the trip.

Q. Now, was there any other way that you could get ammunition in quantities besides the way you have stated that you got it from the quartermaster-sergeant?—A. Ammunition was plentiful.

Q. Whereabouts?—A. In every corner.

Q. Did you get it simply for the asking for it?—A. Yes, sir.

Q. When it was given to you in this way was it not charged to you?—A. No, sir.

Q. No account kept of it?—A. No, sir; I don't suppose there was.

Q. The quartermaster-sergeant would give it to you direct from the storeroom?—A. He'd say, "Jebb, go and help yourself."

Q. What was the name of this quartermaster-sergeant?—A. Well, we had several quartermaster-sergeants down there in Brownsville with K Company since I have been in it. I have been in the company since 1903.

Q. Give the names of some of them.—A. There was Sergeant Snyder, Sergeant Short, Sergeant Riley, Sergeant Cheeseman. Now, I never had any trouble with any quartermaster-sergeant in getting anything I wanted.

Q. Were these quartermaster-sergeants at Fort Brown at that time?—A. Yes, sir.

Q. And they all allowed you to take ammunition freely?—
A. They gave me anything I wanted—didn't allow me to take it—I went and asked for it and they would tell me to go and help myself.

Q. Was that the Krag, or Springfield as well as the Krag?—
A. Well, no; can't say that. Krag ammunition, as I stated before, was plentiful. Springfield ammunition being the new ammunition, firing on one range like at Point Isabell, was kinder scarce, but we always had plenty.

Q. Of what?—A. Both Krag and Springfield.

Q. At the target range could you get all the ammunition you wanted?—A. Yes, sir.

Q. Of the Springfield?—A. Yes, sir.

Q. Were you obliged to turn back what you did not use, or could you bring it away from the range?—A. There was no account kept of it.

Q. No account kept?—A. No, sir.

Q. Didn't you have instructions or orders to turn back what you did not use?—A. No, sir. The quartermaster-sergeant kept the ammunition in his tent and we could go out there and take four or five or six bandoleers—60 rounds of ammunition in each bandoleer for

Springfield rifle. We would carry that out to the target range, for instance, when we were shooting for sharpshooters, and we used so much at that range and carried it to the next range, say we quit that range, some of the men would pick up that loose ammunition that was left out there and carried it back. Others would not pick it up; they would leave it there and some of the officers would take it back to the station and turn it back to the quartermaster-sergeant; others would say, "We'll just keep this ourselves." Out of 60 rounds in a bandoleer there might have been 10 or 15 rounds taken, perhaps 40 rounds taken out of a bandoleer, they would take right to the tents and never turn it in to the quartermaster-sergeant.

Q. Now, did you see much ammunition lying around loose around the barracks at Fort Brown—either loose or in bandoleers?—A. Well, I can't say I seen any lying loose—our company commander was pretty strict about that—but I can say we had ammunition in our barracks, had it in our lockers where the company commander could not see it—all kinds of ammunition.

Q. Do you know whether any of this ammunition was sold?—A. No; I could not say it was sold, because I never seen it sold and never seen any money received for it; never heard anyone say they ever received money for it. The first ever I heard was when Corporal Ryan made his statement before the Senate committee that he sold 2,000 rounds to Mr. Fields; this is the first I knew about it. I might have made a mistake there. I have seen ammunition given away in the vicinity of Brownsville for drinks—just for drinks—that was at Mr. Oden's saloon. I have seen ammunition given away there and he giving the men a drink for taking it down there.

Q. Was any ammunition to your knowledge sold for the benefit of the company fund?—A. Well, I can tell you, the quartermaster-sergeant had surplus ammunition, I don't know what authority he had to sell this, but I know that it was at auction.

Q. The ammunition was sold at auction?—A. It was at auction—anyone could come along and buy it. I think the quartermaster-sergeant had taken the responsibility on himself. I made the statement before the Senate committee that any quartermaster-sergeant, since canteen had been cut off, if he did not make, scrape, and steal all he could get hold of he did not remain long in his position. That is just what I said before the committee. I do not know what became of it, whether it went in the company fund or not, but I think he was the responsible man for the surplus ammunition.

Q. Name some of the quartermaster-sergeants that had ammunition for sale in this manner.—A. Sergeant Cheeseman.

Q. Any others?—A. No; can't say Sergeant Short or Sergeant Riley. I never seen any there to sell anything like Sergeant Cheeseman. He was the only man who ever tried to do it.

Q. Did you see any ammunition in a bandoleer or in two bandoleers in the orderly room of K Company after the company had left barracks to come up here?—A. No, sir; I did not.

Corpl. WILLIAM RYAN, sworn and questioned by Lieut. Col. F. H. French, Twelfth Infantry, testified as follows:

Q. What is your name, rank, company, and regiment?—A. Corpl. William Ryan, Company K, Twenty-sixth Infantry.

Q. Were you stationed with the company at Fort Brown?—
A. Yes, sir.

Q. What rank did you have or what positions did you hold?—A. I have held the positions of artificer, corporal, and private.

Q. Did you have any control over the company ammunition while the company was stationed down there?—A. Well, I had access to the ammunition belonging to the company.

Q. As artificer?—A. Yes, sir.

Q. Also as corporal?—A. No, sir.

Q. Who had charge of it?—A. Well, the quartermaster-sergeant has charge, he and the artificer as a rule carry the key to the store-room, and usually the company commander and the first sergeant. These are about the only ones having access to the company store-room—the company commander, first sergeant, and artificer.

Q. Did your company have any surplus ammunition down there at Fort Brown?—A. Yes, sir.

Q. What kind?—A. We had some surplus Krag ammunition and also some Springfield ammunition.

Q. Was any of this ammunition sold down there?—A. I know of 1,000 rounds that was sold; yes, sir.

Q. To whom?—A. To one H. M. Fields, of Brownsville.

Q. Tell us all you know about it.—A. All I know about it is I was told by the quartermaster-sergeant to deliver 1,000 rounds of ammunition to H. M. Fields and collect for it and turn the money over to him, the quartermaster-sergeant.

Q. Did you do this?—A. Yes, sir.

Q. To whom did you deliver it?—A. To some man—a Mexican man—who was at that time employed by Mr. Fields. I presume he was one of his clerks.

Q. Did he pay you for it?—A. Yes, sir.

Q. How much?—A. Ten dollars.

Q. What became of this money?—A. I have no idea, sir; I turned it over to the quartermaster-sergeant and got back to my company.

Q. You turned it over to whom?—A. The quartermaster-sergeant. His name was Joseph Cheeseman.

Q. Did you take this ammunition downtown and deliver it to Mr. Fields?—A. Yes, sir.

Q. Whereabouts was it delivered?—A. It was delivered at his store. I do not know what street it was on. There are only two streets in the city that I know the names of, one is Washington and the other—now what is the name—

Q. You took it to his store?—A. Yes, sir.

Q. Did you see Mr. Fields there himself?—A. Yes, sir.

Q. Did he hand you the money?—A. No, sir; it was handed me by the clerk, or by this Mexican man.

Q. And you handed this money to whom?—A. To Sergeant Cheeseman in person.

Q. Do you know what Sergeant Cheeseman did with the money?—
A. I do not know exactly, sir; but I remember very distinctly when I gave him the money he said, "That will be a few more messes of vegetables." He remarked that he was going to buy vegetables for the company. I know personally he always carried a small slush fund for the company—that is, all the time I was artificer he always

had a slush fund. He would sell bacon and dried fruit or anything the company did not use; he would sell that at the market price and buy vegetables from farmers, etc., for use of the company.

Q. Why do you call it a slush fund, selling bacon, etc., isn't that authorized?—A. I don't know whether it is authorized or not, but it has been the practice ever since I have been in the Army. Most of the quartermaster-sergeants we have had have always had a small slush fund; that is, one unbeknownst, as a rule, to the company commander, that was not carried in the company fund book.

Q. Did you deliver any ammunition to any other civilian than to Mr. Fields?—A. No, sir.

Q. Did you receive any instructions about preparing some ammunition to be delivered to a civilian?—A. Yes, sir; I got an order one day from Corporal Means, now quartermaster-sergeant of K Company, to prepare 200 rounds to be turned over to him to be delivered to a party in town.

Q. Did you prepare that ammunition?—A. Yes, sir.

Q. How?—A. I simply took small pasteboard boxes—20-round boxes—and wrapped them up in a piece of paper and tied a string around them to hold them together.

Q. To whom did you give this ammunition?—A. To Corporal, now Sergeant, Means, who was then company clerk and noncommissioned officer in charge of quarters at that time.

Q. Did he tell you that he had authority to take this ammunition?—A. Yes, sir. I asked him by whose orders it was I was to deliver this ammunition and he said he had an order from the company commander.

Q. Did he show you this order?—A. No, sir.

Q. Were any others present at the time?—A. No, sir; I don't think there was. The company was absent at that time—they were away on the range.

Q. Did you regard that as sufficient authority to give away property of the company, to have a man come to you and tell you he had an order from the company commander?—A. I think it would be sufficient authority—a man acting in his capacity at the time; he was in charge of the quarters, was the only noncommissioned officer there at the time. I considered it lawful or I would not have delivered it.

Q. How many rounds did you say there were?—A. There were 200 rounds in that package.

Q. Now, going back to this ammunition that was sold to Mr. Fields, how did you take that down to him—how was it carried to him?—A. In a carriage—that is, one of those hacks; one of those Mexican hacks.

Q. How was the ammunition; was it in pasteboard boxes?—A. It was in a wooden case.

Q. Original case; never been opened?—A. Never opened; no, sir.

Q. Did you carry that case down that way, or did you put it in another receptacle?—A. Put it in another box, a kerosene box.

Q. Why did you put it in a kerosene box?—A. That was the quartermaster-sergeant's orders, sir.

Q. For what purpose?—A. I do not know what his purpose was, sir; I do not know.

Q. He said nothing to you?—A. No, sir. He told me to put it in a kerosene box and deliver it to Mr. Fields.

Q. For whom were these 200 rounds intended that you prepared?—A. I understood, sir, it was for Mr. Creager, for the United States commissioner in the city.

Q. Did you hear what became of that ammunition after it was delivered to Mr. Creager?—A. No, sir.

Q. Did you come up with the company, from Fort Brown up here?—A. Yes, sir.

Q. You were artificer at the time the company came up here?—A. Yes, sir.

Q. Did you see any ammunition in a bandoleer or in several bandoleers left in the company quarters?—A. Yes, sir; I know of some that was left there.

Q. How was that?—A. It was left there through mistake, sir. We had orders to issue the company 10 rounds, that is, each man 10 rounds of ammunition, before we left Brownsville, and the sergeant told me to go to the ammunition box and get out as many bandoleers as I thought would be sufficient, and distribute this ammunition. We were very busy and I did not take time to count the ammunition, but pulled out some eight or nine bandoleers and carried them to the storeroom where it was distributed to the company. After that we had about two bandoleers with half of the ammunition left. I asked the sergeant what he was going to do with it. He said, "Leave it here and we will take it down with us in the morning." I got out early next morning—it was dark—and went to the store-room to see if anything was left—the ammunition was hanging high and I did not think to look up for it and went away and left it there through oversight.

Q. Did you see ammunition either loose or in bandoleers lying around the company quarters, or behind the company quarters where any unauthorized person could get it?—A. You mean during our stay there, sir?

Q. Yes; and more especially about the time the company came back from the range.—A. Yes, sir. All of our empty shells and clips and bandoleers and also loose ammunition was stacked in the back yard between the quarters and the walls and it remained there, as well as I remember, until a day or two before we left.

Q. Where anybody could get it if they wanted it?—A. Yes, sir; anyone could have carried off the whole business if they had been a mind to, because there was no guard there at that time.

Q. Was not there room inside to place it?—A. No, sir. Our store-room there is very limited—is very small—and as we were packing our stuff up—we had a great many boxes, packing boxes which took up considerable room and for this reason most of our packing had to be done on the outside, all of our company property was on the back porch for two or three days before we left until it was turned over to the quartermaster to ship. It was packed, marked, and loaded right down on the back porches.

Q. Wasn't any guard placed over this ammunition?—A. Not to my knowledge. I don't think there was, sir. At least I never seen any.

Q. Did you deliver the 200 rounds of ammunition to Mr. Creager?—A. No, sir; I did not, sir.

Q. To whom did you give them?—A. Sergeant Means.

Q. Now, Corporal, while you were artificer or at any other time during your connection with the company have you seen any surplus rifles around the company?—A. I seen six surplus rifles; yes sir; after we turned in our Krag rifles—I don't know whether they were surplus or not, but there were six not turned in.

Q. Your company had orders to turn in the Krag-Jørgensen rifles?—A. Yes, sir. We had orders to turn them in.

Q. And after these were boxed and shipped you saw six Krag-Jørgensen rifles around your company quarters?—A. Yes, sir; there were six after those were shipped.

Q. Did you help in packing these rifles to be turned in?—A. Yes, sir; I did practically all of it, sir.

Q. Do you remember how many rifles you packed?—A. I am not positive, sir, but I think 70.

Q. Were you told to pack a certain number?—A. Yes, sir.

Q. What was that number—the number your company commander was accountable for on his papers?—A. Yes, sir; that is it exactly, sir.

Q. And you packed all he was accountable for on his papers?—A. Yes, sir.

Q. Then there were six Krag-Jørgensen rifles left after that?—A. Yes, sir.

Q. Were those rifles any special ones, or were they just any that had been turned in by the men—did you pick out six of them to be retained?—A. I selected them. I had orders from the quartermaster-sergeant to select six—he told me to pick out six of the best and pack up the other seventy, and as I packed them into the box one by one, when I came across one that looked to be a good one I inspected it carefully and if it turned out to be a good gun I kept it out and kept this up until I had selected six and packed the rest.

Q. What did you do with the six then?—A. They were stored away over in the storeroom, sir.

Q. How were they stored, were they stored in boxes or not?—A. No, sir; they were packed on top of a shelf, a shelf probably a little higher than that one [refers to shelf about 7 feet high and about 2 feet wide], probably 2 feet higher than this. The shelf was also wider than this one and probably 8 feet high.

Q. Who gave you this order to pick out the six rifles?—A. The quartermaster-sergeant.

Q. What was his name?—A. Joseph Cheeseman.

Q. Was anything done to those rifles before they were put on the shelf?—A. Yes, sir. It was something like a week or more the sergeant came to me—the rifles were setting in the gun rack—he came to me and told me to take the official numbers off of them if I could—he asked me if I could do it and I told him I could. He told me to take the numbers off of them and put them away out of sight.

Q. How did you take these official numbers off?—A. With a center punch and a light hammer. A center punch is just a small punch, but has a small bullet on the end and forms a kind of groove across the numbers. The numbers are set in slightly, and by just tapping on the punch it makes a slight depression where the numbers were, and it destroys the numbers and at the same time it is almost unnoticeable.

A person just looking at the rifles could not tell what the number of the rifle was.

Q. Who was in command of the company at this time?—A. I am not positive about it, sir; I am not sure. I don't know whether it was Captain Kilburn or whether Lieutenant Parker had taken command, but it was just about the time that Captain Kilburn had—was relieved of the command.

Q. Can you tell me what month it was?—A. I am not sure, but it seems to me like the latter part of May.

Q. 1906?—A. Yes, sir.

Q. Can you fix it by anything happening around the company at that time or about that time?—A. That is, the date, you mean, sir?

Q. Yes; about that time?—A. I could not say exactly, sir; I do not remember. I was very busy at the time packing stuff and making arrangements to come here and shipping stuff to the range. I was working most every minute of the day and did not give the matter any serious thought at the time and am not positive about the date. As well as I remember it was some time in May—as well as I remember it was some time during the latter part of May; it may have been a little before or a little after.

Q. Do you remember any of the numbers that you crossed out?—A. No, sir; I never looked at the numbers.

Q. Where were those numbers—on what part of the gun were they?—A. They were along the left of the barrel, where the bullet goes in. The numbers are right near the chamber or breech, on the left-hand side as you look towards the muzzle.

Q. The number of the rifle, then, is what you mean by the official number?—A. Yes, sir; the number of the rifle.

Q. And that number is stamped in on part of the barrel itself?—A. Yes, sir.

Q. Now, you put these rifles up on top of a shelf—you say a pretty high shelf?—A. Yes, sir; I judge about 7½ or 8 feet—I can not say exactly.

Q. Did Sergeant Cheeseman see you put them up there, or did he know that they were up there?—A. No, sir. He asked me later on where I had put them, and I told him they were up on top of the shelf.

Q. Now, what became of these rifles; did you pack them? You say you were packing the company property.—A. No, sir; I did not pack them. I do not remember of ever seeing them after that, with the exception of those two I seen at this post after the company came up here.

Q. Where are they now—those two?—A. I do not know, sir. I have not seen them since I was discharged. I was discharged the 10th of January. They were there just about the time—no, it was about three weeks after the company came back from Camp Mabry—I was straightening up in the storeroom and I seen the rifles—

Q. You came back from Camp Mabry when?—A. We came back some time, I think, in September.

Q. Last year?—A. Yes, sir.

Q. And you saw these rifles in your company quarters at that time?—A. At that time, yes, sir.

Q. Have you heard anyone say anything about the disposition of

these six rifles or what became of them, any of them or all of them?—A. The only one I heard anything about was one I heard was sold by Sergeant Cheeseman to an ex-sergeant that used to be in the company. I do not know whether that was the truth or not.

Q. What was the name of the ex-sergeant?—A. His name was Sergt. James Short.

Q. Is he now in the service?—A. I do not know, sir; I don't think he is.

Q. Who told you that Sergeant Cheeseman had sold this rifle to Sergeant Short?—A. Sergeant Short told me himself, sir.

Q. Did he tell you the amount he paid for it?—A. As well as I remember, sir, he said he paid \$14.25 for it.

Q. Did you hear of the disposal of any of the rest of these guns?—A. No, sir; I have not.

Q. Only that one?—A. That is the only one I ever heard of being sold.

Q. Do you know to whom any of these guns whose numbers were altered had been issued—to what men?—A. Well, sir, as well as I remember—if there was no change made—one of the rifles kept on belonged to me—that is, it was one I had turned in before I received the new Springfield. There was one that we did not pack with the rest that belonged to Private Jebb, but I do not remember whether any one was put in its place or not.

Q. What do you mean by "we;" did anyone help you?—A. Private Jebb—he was helping me one day in the storeroom—he was in there helping me select these guns; he was also helping to pack them.

Q. Pack what?—A. He was helping me pack the rifles in the cases.

Q. Those that were to be sent away?—A. Yes, sir.

Q. Now, Corporal, how does it come that you had surplus guns in your company?—A. I do not know, sir. I do not know where they came from. I was not with the company all the time—still I have been with it now on the fourth year, but how they came with the rifles I do not know. I did not know anything about the surplus rifles until we were ordered to turn ours in. Where they came from I do not know.

Q. Did you hear anything in the company as to the way they had become surplus?—A. I heard some men talking about it, yes sir, afterwards, but, as the saying goes in the Army, a man can hear most anything around a company.

Q. What did you hear these men say?—A. They claimed the rifles were either captured or were secured in some way in the Philippines.

Q. They were United States Government rifles, weren't they? I supposed they were Krag-Jørgensen rifles, were they not?—A. Yes, sir.

Q. It is not likely that they would be captured, is it?—A. Yes, sir; quite a number were captured in the islands.

Q. That had been surrendered and recaptured?—A. Yes, sir; that way.

Q. Did you hear anyone say they had been gotten in any way other than having been captured?—A. I heard some man say they had been gotten when a casco was wrecked in the Philippine Islands—they got them out of the wreck—but, of course, whether there is truth in it or not I do not know.

Q. Can you tell me the names of any of the men who said this?—A. No, sir; I do not have any recollection. Nearly all of the men that were there at that time have been discharged and left. We only have a very few now in the company that were with the company in the Philippines. I don't believe there are more than two or three.

Q. Name some of these.—A. One is Artificer Onan, and Sergeant McCarty.

Q. Were these six rifles the only ones you ever saw—that is, the only surplus rifles you ever saw—in the storeroom or around the company?—A. Yes; they were the only ones I ever saw, sir.

Q. Now, Corporal, you have testified here of the manner of disposal of one rifle.—A. Yes, sir; one that was sold to ex-Sergeant Short.

Q. Now, in your testimony before the Senate committee, didn't you state you had heard what had become of some other rifles—that is, surplus rifles?—A. The Senate committee asked me if I ever heard of any rifles that were given away, and I told them I do not know anything positive, but that I had heard some of the men say rifles had been given away.

Q. What did you hear—were given to whom?—A. Well, I understood one was given to Sergeant Sharpe, post quartermaster-sergeant at Fort Bliss, Lieutenant Schmidt, and one to Captain Church, of the Medical Department.

Q. That would account for four of them and would leave the two you have seen here.—A. Well, I do not know when these rifles were supposed to have been given away; don't know whether it was afterwards—that is, after we turned ours in—or not. It might have been before or afterwards; I don't remember which.

Q. When were you relieved as artificer of the company?—A. When I was discharged the 10th of last January—no; I was relieved and appointed a corporal just a day or so before I was discharged, but I was still in the storeroom until I left the company.

Q. The last time you saw these two rifles was around about September?—A. It was some time last summer. I do not remember exactly; possibly it was in August—along about August or September.

Q. Now, didn't you see them between summer and the time that you were discharged the service?—A. I don't remember of having seen them, sir.

Q. When you were discharged who was put in charge of the storeroom in your place?—A. Artificer Onan, sir.

Q. He is in charge of it now?—A. Yes, sir.

Q. Did you tell him anything about these surplus rifles?—A. No, sir.

Q. When he took your place?—A. No, sir; he had not been appointed when I left. He was appointed after I had gone away. He was appointed in my place, but he did not relieve me, sir.

Q. I understood you to say that you were appointed corporal before you left?—A. I was, sir; I think a day or two before I left.

Q. And no artificer appointed then?—A. No, sir; he was appointed after I left.

Q. In your testimony at Washington the following appear [reads]:

Q. Do you know of anybody else selling or giving them away?

This refers to the rifles, and your answer is [reads]:

I understand Captain Kilburn has one himself.

What can you say about that?—A. Well, sir, I worked around Captain Kilburn's quarters, and before I left there there was one in his quarters.

Q. You did see one?—A. Yes, sir; also a lot of other old rifles and ammunition—in the way of old relics, I suppose. The Captain had a lot of curios—Mausers, bayonets, and the like—kind of junk, you might as well call it, in the way of rifles.

Q. You say you saw them in his quarters?—A. Yes, sir.

Q. When was this?—A. A good many times. I was artificer of the company and was required to go there on numerous occasions in connection with my work.

Q. When was the last time you saw them?—A. The last time I remember seeing it was when I started packing Captain Kilburn's property just before he left Fort Brown.

Q. That was in what month and what year?—A. That was I should think, in April or May, the latter part of April or May, the latter part of April, or somewhere along there.

Q. In what year?—A. 1906.

Q. Did you notice this gun? Did you see whether the number had been erased on it or not?—A. I never did look at it; no, sir. There was nothing special about it to attract my attention, and I never paid much attention to it. It was common thing in officers' quarters to have a rifle or bayonet around.

Q. You say you packed Captain Kilburn's property for shipping?—A. Yes, sir.

Q. Did you carry that gun to the company quarters to be turned in?—A. I do not remember of it, sir; I do not remember turning it in.

Q. If it had been turned in, it would have been turned in to you or the quartermaster-sergeant?—A. Possibly it may have been turned over to the first sergeant. In case the quartermaster-sergeant or myself happened not to be there, the captain, if he had anything to be left for us, always left it in care of the first sergeant in our absence.

Q. Did you see the order—the written order from Lieutenant Parker—directing that those cartridges be turned over to Mr. Creager?—A. I don't remember exactly whether I did or not. I remember Sergeant Means came to me and says, "Ryan, I want you to get 200 rounds of Krag ammunition and tie it up for Mr. Creager." I asked him, I says, "Who gave you that order?" He says, "I have a written order from the company commander." I says, "Do they want me to take it down and deliver it to Mr. Creager?" He says, "No; turn it over to me; Mr. Creager is coming after them." I didn't like to do it much and hesitated; the corporal got pretty mad—that is, he got a little angry—about it and asked we whether I was running the company or whether the company commander was running it. I went back to the storeroom and studied over the matter. Of course the corporal was left in charge of the quarters; he was the only noncommissioned officer there, and there was no commis-

sioned officer there, and as I had received orders I thought the matter over of course and packed the ammunition up and turned it over to him.

Q. How did you pack it?—A. I wrapped it up in wrapping paper and tied a string around it to keep it from falling apart.

Q. When was this?—A. That was some time during the month of June; the company was down at the target range.

Q. This was Krag ammunition?—A. Yes, sir; Krag ammunition.

Q. In packing the rifles to be sent away, six good ones were retained and the rest shipped, as I understand?—A. Yes, sir; all the rest were shipped, sir.

Q. What was the object in erasing those numbers and putting the guns upon the shelf, as you testified?—A. Well, the only object I had was I just obeying orders of the sergeant—I did it by his orders.

Q. He gave you the orders to do that?—A. Yes, sir; I never did anything without being told by him or the company commander.

Q. Did he say anything to you in reference to these guns—about the disposition of them in any manner?—A. Never mentioned it to me; no, sir. Well, I did hear him remark they were for sale. It seems to me, as well as I recollect, he asked me if I knew anybody who wanted to buy any—told me if I saw anybody who wanted to buy one to send them to him. I never saw anybody and never looked for anybody.

Q. Did he state for what purpose he wanted to sell the rifles, whether it was for the company fund or not, or for the company?—A. No, sir. He told me—I asked him what the price of the rifles would be—I was thinking a little about buying one myself, and he said he couldn't take less than the Government price for them. "They belong to the company," he says, "and the money is to be used in the company fund, and I couldn't take a cent less than the actual cost of the rifles." That is, as well as I remember, \$14.25.

Q. When was the first time that you saw these rifles?—A. That was when I was packing up—it was some time in May—May or probably the first part of June, some two or three weeks before they were finally shipped.

Q. When was Sergeant Short discharged?—A. I do not remember exactly when it was, sir; but it was some time after the company got back from Camp Mabry—it was some time from September until I was discharged.

Q. Some time between September and the end of the year, last year?—A. Yes, sir.

Q. When did Sergeant Short buy this rifle, according to the information you have had?—A. According to the information I had, he bought it and paid for it at Brownsville.

Q. At Fort Brown?—A. Yes, sir. Yet he did not take possession of the rifle until he reached here—that was some time last fall that he took the rifle and shipped it or took it home with him or shipped it, I don't know what he did with it.

Q. Who told you all this?—A. I don't remember who it was. Sergeant Short mentioned it to me before we left Fort Brown, and after we got here he was talking to me about his buying one of these rifles. I knew he contemplated buying one of them for a long time.

Q. Did anybody else speak to you about this—Sergeant Short's transaction?—A. I do not recollect anyone ever mentioning it.

Q. Did the quartermaster-sergeant say anything to you about it?—A. No; he never mentioned any of his company business to me outside of the storeroom.

Q. Who was the quartermaster-sergeant at the time Short was discharged?—A. Sergeant Means was quartermaster-sergeant at the time he was discharged.

Q. Did you pack that rifle you say you saw in Captain Kilburn's quarters—that Krag rifle—at the time you packed his property?—A. I do not recollect seeing it at the time I packed his property.

Q. You say you have no recollection of seeing it, and that you have no recollection of packing it?—A. No, sir.

Q. Do you know what became of it?—A. I have no idea, sir.

Q. How were loose guns—that is, guns in use by the company—taken care of—how were they kept in the storeroom?—A. They were all kept in racks, sir. We had a rack about 5 inches from the floor for the butt of the guns to rest on—that was on the left of the door—a short sack in the corner; and there was a longer one over in the corner near the fireplace, the guns are placed in these when not in use; but there is no lock and key on the racks, but of course the storeroom is locked at all times.

Q. And the six surplus guns. Were they kept in the same racks?—A. Yes, sir; they set there for some time after we had packed the rifles that were accounted for and shipped them away.

Q. Then, when you erased the numbers you put them up on the shelf?—A. Yes, sir; I took them out of the rack myself, erased the numbers, and the sergeant told me to put them away out of sight so nobody could see them in case they came in. He told me he didn't want anybody to know they were there—he meant an inspector might come, I suppose, I did not know—I did not ask him.

Q. Did you report to your company commander that there were six surplus guns, or any surplus guns?—A. No, sir.

Q. Did you report that fact to any officer?—A. No, sir.

Q. Did you report it to your first sergeant?—A. No, sir.

Q. Did you talk to any officer, noncommissioned officer, or any other enlisted man about those six surplus guns?—A. Why, I suppose it has been mentioned from time to time among the men in the company, sir; I don't remember making it a point to tell anybody about it; in fact, I never thought anything about it much, myself—most any man in the company at that time, I suppose most any of them would tell you, any of them who were there at the time—it was no secret throughout the company about the surplus guns being there.

Q. Now, tell me the names of some men who are now in the company and who knew of the surplus rifles being there—being in the company at that time—some who are still in the company, and would know it at that time.—A. Well, Private Jebb—he seen them, and, of course, I suppose Sergeant Means and Sergeant McCarty and Sergeant Wesner. Of course I don't know whether they ever seen the rifles or not. Probably they have heard something about them. I am not sure, but they should have heard about them same as anyone else.

Q. Who is the first sergeant of the company?—A. Frank Butler, sir.

Q. Was he in the company at that time?—A. Yes, sir.

Q. What position did he have in the company at that time?—
A. Duty sergeant.

Q. Or was he company clerk?—A. He was duty sergeant at that time, at the time we left there, sir. He was company clerk some time ago, sir.

Q. Did you have any conversation with the present artificer, Onan, in reference to these rifles, the disposition of them?—A. Not that I know of, sir. I don't remember that I did, sir.

Q. Do you remember what you testified before the Senate Military Committee in regard to that matter?—A. I do, sir.

Q. And what was that?—A. I stated before the Senate Military Committee that Onan had told me he had to turn his rifle in, as Lieutenant Schmidt was going to take it, and that he did turn it in and Lieutenant Schmidt was going to take it away.

Q. Take it where?—A. I don't know, sir. He told me Lieutenant Schmidt told him one of the rifles had been given to him and that he had selected Onan's rifle; that he had shot with that rifle at Ringgold in 1905, and that he liked it, and that was the reason he selected Onan's rifle.

Q. Did Lieutenant Schmidt leave the company about that time?—
A. Yes, sir; a short time after that—it was not long after that.

Q. I will read your testimony here. It says, "You know Lieutenant Schmidt shot with it up at the range and fell in love with it, and he is going away and the captain told him he could have a rifle and so he selected mine to take away with him." Now, in the testimony, the artificer states that the lieutenant took that rifle away with him—was that a correct statement?—A. Yes, sir; that is the way I understood it at the time. Of course I did not see Lieutenant Schmidt when he went away, and don't know that he took the rifle.

Q. I am not asking you if he took the rifle, I am asking if that is a correct statement made to you.—A. Yes, sir; as well as I remember it was.

Q. Who was captain at that time?—A. Captain Kilburn.

Q. The captain he refers to here?—A. Yes, sir.

Q. You mean Capt. D. W. Kilburn?—A. Yes, sir.

Q. Did Onan turn his rifle in to the company and get credit for it?—A. Yes, sir; I should think so; everybody turned in their rifles.

Q. At the time you refer to in your last answers, did Artificer Onan turn in his rifle to be given to Lieutenant Schmidt?—A. I don't know, sir.

Q. Who was the artificer at that time?—A. As well as I remember, sir, it was Edward Case, a man named Case.

Q. Where did this conversation between you and Onan occur?—
A. In the squad room.

Q. Whereabouts?—A. Upstairs in the squad room at Fort Brown, Tex.

Q. What time was this?—A. In 1905, sir; shortly after we came back to Fort Brown from Fort Ringgold.

Q. Was the captain present with the company at that time?—A. I do not know, sir.

Q. Do you know whether Lieutenant Schmidt took this rifle away with him or not?—A. No, sir; I do not.

Q. Did you pack up Lieutenant Schmidt's property for shipment?—A. No, sir; I was not artificer at that time, sir.

Q. When were you first relieved as artificer?—A. That was at Ringgold—during target practice at Ringgold.

Q. In what month was that?—A. As well as I remember it was either June or July.

Q. 1905?—A. 1905; yes, sir.

Q. Why were you relieved at that time?—A. Why, as well as I remember, I believe I was absent overnight.

Artificer NOBLE ONAN, being sworn and questioned by Lieut. Col. F. H. French, Twelfth Infantry, testified as follows:

Q. What is your name, rank, company, and regiment?—A. Noble Onan, artificer, Company K, Twenty-sixth Infantry.

Q. How long have you been in Company K?—A. I have been in Company K since October 10, 1901.

Q. How long have you been artificer of the company?—A. This last time I have been artificer about three months and a half. I was artificer once before—during my first enlistment.

Q. Whom did you relieve as artificer this last time?—A. I did not relieve anyone, sir. Corporal Ryan was discharged and went away and when he was discharged and went away I was appointed in his place.

Q. How long a time elapsed between his discharge and your appointment?—A. It was about three or four days, sir; I don't remember just exactly.

Q. As artificer, did you have charge of the company property?—A. No, sir; I have not. I have access to the storeroom. I can go in there and work, handle the stuff, but do not have charge of it.

Q. Have you seen around the company, or in the company storeroom, or anywhere else around the company, any surplus rifles: that is, rifles that were not borne upon the company property return?—A. No, sir; I have not—not since I have been artificer I haven't saw any.

Q. Did you see any rifles—that is, any rifles that were surplus before you were appointed artificer?—A. No, sir; I did not know of any surplus rifles—never saw any—did not know of any at all. If there were any in the company, I never saw them.

Q. Did you ever hear of any surplus rifles or have any conversation with anybody in regard to surplus rifles in the company?—A. I don't think I did, sir. I may have heard it mentioned that there were surplus rifles, but I did not know that they were there myself.

Q. You were at Fort Ringgold in 1905?—A. Yes, sir.

Q. At the target practice there?—A. Yes, sir.

Q. What conversation did you have with present Corporal Ryan in regard to surplus rifles at that time?—A. I did not have any conversation with him at all in regard to surplus rifles. If I did, I don't remember it. I don't remember anything about it. I did not mention surplus rifles to him or anything about it. If there were surplus rifles, I didn't know anything about it.

Q. What conversation did you have with him regarding giving up your rifle to Lieutenant Schmidt?—A. Well, now, I had a rifle, and sir, it was a good rifle—a good shooting gun—Lieutenant Schmidt had used it up on the range, and it seems he taken a liking to it, and he gun—they were going to have target practice down there grounds—they had a small range outside of the company's

ground—he wanted to practice himself, you know, and I had orders from the quartermaster-sergeant to turn this gun over, and I turned it over to the quartermaster-sergeant, and I mentioned it to Ryan. I told him, I says, “I am going to lose my gun.” He says, “How is that?” “I have got orders,” I says, “to turn it over to the quartermaster-sergeant,” which I did. I don’t know where it went, and I never saw it any more.

Q. Did you say anything to Corporal Ryan, as he is now, in reference to Lieutenant Schmidt taking your gun away?—A. No, sir; I did not. I did not know what he was going to do with it. I don’t even know that he got it—don’t know whether he got the gun or not.

Q. Did you tell Corporal Ryan that the captain had given Lieutenant Schmidt your gun—that Captain Kilburn had given him a gun?—A. No, sir; I don’t remember ever mentioning the captain’s name at all, sir. His name might have been mentioned, but I don’t remember it.

Q. Then, you gave up your gun by order of the quartermaster-sergeant?—A. On the orders of the quartermaster-sergeant; yes, sir.

Q. Who was the quartermaster-sergeant at that time?—A. Sergeant Cheeseman.

Q. What conversation did you ever hear in the company in regard to surplus rifles?—A. I don’t know that I ever heard any conversation at all, sir, in regard to surplus rifles. I have heard it mentioned that there were surplus rifles at that time in the company, but I don’t know where they came from. I did not see any, and I was in the storeroom as artificer two years, and if there had been any surplus guns it looks like I would have saw them.

Q. When were you artificer and in the storeroom—that is, the two years that you state?—A. 1901 to 1903, sir.

Q. Were there any surplus rifles in the company at that time?—A. Not that I know of.

Q. You would most likely have known it if there had been any surplus rifles at that time?—A. I think I would; yes, sir. I never kept the property books and never kept the rifles, but I think I would have known it if there had been any extra guns.

Q. Weren’t you there with the quartermaster-sergeant?—A. Yes, sir.

Q. Didn’t he have charge of the rifles at that time?—A. Yes, sir.

Q. And is it not quite likely you would have heard about them?—A. Yes, sir; more than likely I would.

Q. And you never heard from him or had any talk with him about any rifles that were surplus—that is, rifles that were not accounted for on the property return?—A. No, sir; I did not.

Q. Can you recollect the name of any man in the company that you heard mention anything about the surplus rifles?—A. No, sir; I can not. Most of the men now in the company are new men; there are only a few now in the company that were with it at that time.

Q. But there are some in the company—that is, some old men in the company?—A. Yes, sir; very few.

Q. Do you recollect whether any of them spoke to you or had any conversation with you or talked to you in regard to surplus rifles?—A. No, sir; I do not. I don’t remember any name I ever heard mention it. I don’t remember who it was at all.

Q. Did you remain at Fort Brown after the company left to go to Camp Mabry or did you come with the company?—A. No, sir; I came with the company.

Q. Did you ever hear that a rifle was given to Lieutenant Schmidt, or to Post Quartermaster-Sergeant Sharp, or that the captain had a rifle in his possession that was not on the papers?—A. I don't think that I did, sir. I remember nothing about it at all. If I heard anything about it I don't remember it.

Q. Never heard anybody say anything in regard to these matters?—A. No, sir; I don't think I ever did.

Q. Are there any surplus rifles in the company now?—A. No, sir. If there is I don't know anything about it. I have never saw any since I have been the artificer.

Q. Have you been in your company storeroom recently?—A. Yes, sir; I have been all through it, seen everything in it.

Q. How long ago?—A. Two or three weeks ago. I have to go there every once in a while, and if there had been a rifle in there I would more than likely have found it.

Q. Have you ever seen around your company any rifles with the numbers erased?—A. No, sir; I have never seen any in my life; no, sir; never did.

Q. When you turned in your rifle at Fort Ringgold, what became of it?—A. I never turned it in at Fort Ringgold, sir.

Q. Did you turn it in after you came back?—A. Yes, sir; two or three weeks after we came back to Fort Brown—I don't remember how long but it was quite a long time.

Q. You never saw it after that time?—A. No, sir. After I turned it in to the storeroom I never saw it. I do not know where it went to.

Q. Did you help pack Lieutenant Schmidt's property for shipment when he left?—A. No, sir; I don't think he had any property to pack.

Q. Have you any surplus ammunition in your company?—A. No, sir; we have not.

Q. You are artificer now?—A. Yes, sir. There is none in the storeroom, probably the men may have some in their lockers to keep as relics, but there is none in the storeroom—not a one.

Q. Do you know of any ammunition being sold?—A. No, sir; I do not. Don't know anything about ammunition being sold at all—never was interested in that.

Q. How do the men get this surplus ammunition that you state they may have in their possession?—A. How did they get them?

Q. Yes?—A. Why, on the target range lots of times, probably they would put some in their pockets—that is, if they have got it—I don't know that they have got any—I have not saw any. I haven't saw a Krag ball in I don't know how long, but it has been a long time, though.

Q. You spoke of them getting them on the target range—how do they get them there?—A. Well, it may be they would be issued so many rounds to fire and they would not fire them all, and they would take them away on their person.

Q. Is there no accountability—no record of the number of rounds that they get?—A. Yes, sir.

Q. And is there no record kept of the number they fire?—A. Yes, sir.

Q. Well, how could they have a surplus?—A. It is easy enough to get surplus ammunition on a range. They could easily enough have 10 or 12 rounds to fire in a skirmish run and not fire them all—something like that.

Q. If you were short in the ammunition that had been issued to you, could you go to the quartermaster-sergeant and get more to replace it?—A. Yes, sir; I could.

Q. Which would probably be charged to you?—A. I don't know that it would—never seen a case of that kind where it was charged. It is very seldom that a case like that comes up. We issue a man 10 rounds, which is put on the property book just the same as a rifle is charged—10 rounds to each man—and I have never saw a case yet where any of them had lost their ammunition.

Q. Do men ever give their ammunition away?—A. I don't know, sir. I never did. I never saw anybody give any away.

Q. You have never given any away?—A. No, sir.

Q. Never given any away to any of the rangers or anyone else?—A. No, sir; I have not. I would not have given it to the rangers if I had had a carload of it—I don't like them well enough.

First Sergt. FRANK G. BUTLER, sworn and questioned by Lieut. Col. F. H. French, Twelfth Infantry, testifies as follows:

Q. State your name, rank, company, and regiment.—A. Frank G. Butler, first sergeant, Company K, Twenty-sixth Infantry.

Q. How long have you been in Company K?—A. Since June, 1904.

Q. What positions have you held in the company?—A. I was company clerk, corporal, sergeant, first sergeant since that time up to the present time.

Q. When were you company clerk—between what times?—A. From the latter part of 1904 until about December, 1905—not all that time, but during that time.

Q. Where was the company stationed during that time?—A. At Fort Brown, Tex.

Q. The latter part of 1904?—A. Yes, sir.

Q. You joined the company at Fort Brown?—A. Yes, sir.

Q. Did you hear at any time of any surplus rifles in the company? By surplus I mean rifles that were not borne on the property return.—A. I remember hearing that the company had some extra rifles in the Philippines before they were brought back to the States, but I did not hear whether they brought the extra rifles with them or not. The rifles, other than those actually in use, were kept in the storeroom, and I never had anything to do with the storeroom.

Q. You were in the orderly room and made the property returns?—A. Yes, sir.

Q. Is it not quite probable that you would have heard it if there had been surplus rifles?—A. Well, I do not know; might have heard it and might not.

Q. Did not you have to account for certain property?—A. Yes, sir.

Q. According to property returns?—A. Yes, sir.

Q. If the company had been short any property or there had been any surplus is it not quite likely you would have heard it?—A. If there had been any surplus the company commander, I suppose, would have told me to take them up.

Q. And he did not direct you to take any up on the return?—A. No, sir.

Q. Did you hear or did anybody tell you anything about any rifles being surplus in the company storeroom there at Fort Brown?—A. I have no recollection that anybody ever told me.

Q. You heard nothing at all about them either in casual conversation with any of the company clerks?—A. Only just as I have stated, that the company had some in the Philippines.

Q. You never had any shortage of guns?—A. No, sir.

Q. How are guns issued to men—how is accountability kept of guns that are issued to men?—A. Each man is issued one rifle and the number recorded opposite the man's name on the property book.

Q. Were you company clerk at the time the Krag rifles were turned in and the Springfield rifles substituted?—A. No, sir; I had been relieved prior to that time.

Q. Who relieved you?—A. I think Corporal Means; I am not sure, but I think it was Corporal Means. He is now quartermaster-sergeant. He was company clerk at the time.

Q. About last June—1906?—A. Yes, sir. I was on detached service at that time with a topographical survey and I was not in the company when the rifles were turned in.

Q. When the men turn in their guns for any reason are they examined to see that they turn in the same gun that was issued to them?—A. Yes, sir; that is the duty of the quartermaster-sergeant to see that they turn in the same gun that was issued to them, but very often guns are exchanged. Some times when a man is discharged who has a good gun that some one else wants they will exchange guns, but they will have to look up the quartermaster-sergeant and have the numbers changed on the book—on the property book.

Q. When you were out on this survey, did you give any ammunition away, or did you see any ammunition given away?—A. No, sir.

Q. Were there any rangers with you at any time during this survey?—A. No, sir. There was one second lieutenant, myself, and two privates and nobody else.

Q. Was Private Jebb with you?—A. No, sir; he was not with the same party. Jebb was with Lieutenant Harris, I was with Lieutenant Hanford—a different detail altogether.

Q. Do you know where Sergeant Short, formerly of your company, is now?—A. No, sir; I have never heard of him since he has been discharged. I don't think anybody in the company ever heard from him after he left.

Q. Do you know where Sergeant Cheeseman is now?—A. No, sir; but I would like to know.

Q. Have you had any notification in the company of his being reenlisted?—A. No, sir; not up to the present time.

Q. Do your company records show where his home was?—A. I think he gives his home as United States Army. The home of a man who has had more than two or three enlistments is given as United States Army.

Q. Do the books show what relatives he wished to have informed in case of accident to him?—A. I don't know; they should show; I can tell by looking it up.

Q. Why would you like to know where Sergeant Cheeseman is?—A. Because when the sergeant left the company he carried the reputation of being dishonest—he went off with our library funds. If I knew where he was I would like to try to get these funds, as I was interested in the library.

Quartermaster-Sergeant MEANS, being sworn and questioned by Lieut. Col. F. H. French, Twelfth Infantry, testifies as follows:

Q. What is your name, rank, company, and regiment?—A. James A. Means, quartermaster-sergeant, Company K, Twenty-sixth Infantry.

Q. How long have you been quartermaster-sergeant?—A. Since August of last year.

Q. What positions did you have in the company prior to this?—A. Corporal and company clerk.

Q. At the same time?—A. No, sir; I was company clerk before I was made sergeant.

Q. Before you were made sergeant you were company clerk?—A. Yes, sir.

Q. Between what times were you company clerk; what dates?—A. I was company clerk from about November, 1905, until August, 1906, when I was made a sergeant. I think those are about the dates, I am not positive.

Q. At Fort Brown were there any surplus rifles in your company?—A. I have heard it said that there were, but I don't know only from hearsay, I never saw any.

Q. I mean by surplus rifles rifles that are not carried on the property return.—A. Yes, sir; that is what I understood you to mean.

Q. What did you hear; what is the substance?—A. Well, I heard, casually, that there were several surplus rifles they had over in the islands, but I am sure I never saw any of them.

Q. Who are some of the men that told you there were surplus rifles?—A. I could not say now, sir; it has been so long ago I can't say; just casually talking among the men, that is all my knowledge.

Q. Did the first sergeant of the company say anything to you about it?—A. No, sir.

Q. Are you sure about that?—A. Yes, sir.

Q. Did you hear the quartermaster-sergeant or artificer say anything about them?—A. No, sir.

Q. Have you any knowledge of any surplus guns in the company since you have been quartermaster-sergeant?—A. No, sir; there was never any turned over to me. no guns or ammunition of any kind in excess of what was accounted for.

Q. Did you see any guns in the storeroom at any time that were not accounted for on the property return?—A. No, sir.

Q. As company clerk you would know how many guns were on the return, and following it up as quartermaster-sergeant you would know how many guns you would be accountable for?—A. Yes, sir; I would know how many I had in the storeroom.

Q. At any time were any guns in the storeroom or around the

barracks or any other place you know of, any rifles that were not on the papers?—A. Not to my knowledge; no, sir.

Q. Corporal Ryan has testified that he erased the numbers on some rifles, that these rifles were surplus in the company, and that he saw two of the rifles after he came here.—A. That is possible.

Q. Now, have you any knowledge of them?—A. No, sir.

Q. Have you seen these rifles here?—A. No, sir.

Q. Do you know anything about them?—A. When I was made quartermaster-sergeant at Camp Mabry, Sergeant Cheeseman—I relieved him. He was quartermaster-sergeant. I was home about two weeks, then we went to Camp Mabry. In the meantime he had been up and down to Camp Mabry and the quarters, and I do not know whether he unpacked any rifles or had any rifles there at that time or not. I know there were none in the storeroom when I came back there.

Q. None around the company since you took charge?—A. No, sir; not to my knowledge.

Q. Have you ever seen any rifles with the numbers erased on them?—A. No, sir.

Q. Blocked out by any tool?—A. No, sir.

Q. Were you at Fort Ringgold with the company at target practice?—A. Yes, sir.

Q. Did you give Onan any instructions about turning in his gun?—A. No, sir. I was a private then.

Q. Were you not company clerk then?—A. No, sir. Well, I was temporarily, only for several days.

Q. Now, do you recall telling Onan to turn in his gun, that Lieutenant Schmidt wanted it?—A. No, sir.

Q. Were you company clerk at the time the Krag rifles were shipped back to the arsenal from Fort Brown?—A. Yes, sir.

Q. Did you hear anyone say at that time that there were some rifles in the storeroom that had not been shipped, that were surplus and not on the property accountability?—A. No, sir; I don't have any recollection of hearing anything of the kind.

Q. Did you send a list of the numbers of these rifles that were turned in at that time?—A. Yes, sir; I made a list of the numbers of the rifles that were put in the box, put in with the guns, also a screw-driver.

Q. A list of the rifles—that is, the numbers in each box was put in the box?—A. Well, I suppose it was put in the box. I made out a list of the numbers and turned it over to the artificer—he did the packing. He would bring a list to me in the orderly room and I would make it out on the typewriter.

Q. Were those lists the same as those that had been issued to you—originally to the company?—A. Yes, sir; they were company rifles that were packed the same, I suppose, as were on the invoices and receipts.

Q. Was any comparison made between the numbers you sent away and the lists of the numbers that were received from the arsenal when the guns were received?—A. No, sir; not to my knowledge.

Q. Then there might have been some rifles that were not on the invoices of the company sent back, could there?—A. I suppose it might be possible; sometimes guns are exchanged.

Q. It has been testified here that six rifles were altered by erasing the numbers on them, that these six rifles were not shipped back, that they were surplus and were left in the company room. Now, that change could have been made without being detected unless you compared the number of the rifles as they were invoiced to you from the arsenal with the numbers that were shipped, could it?—A. Yes, sir. If the numbers—if the list which was received with the guns had been retained.

Q. Were they not kept?—A. I don't know, I never seen them.

Q. Was Corporal Ryan the artificer in June, 1906, May or June, 1906?—A. I think so.

Q. At the time the company was at Point Isabell for target practice?—A. Yes, sir.

Q. Did you give him any instructions at that time in reference to 200 rounds of ammunition?—A. Yes, sir.

Q. What were those instructions?—A. I gave him instructions to have 200 rounds of ammunition brought to me from the storeroom that I was to give Mr. Creager, of Brownsville, on the written order of Lieutenant Parker.

Q. Who was Lieutenant Parker?—A. He was first lieutenant of the company.

Q. Was he in command of the company at that time?—A. Yes, sir.

Q. What directions did he give you in regard to these cartridges—simply to give them to Mr. Creager?—A. Yes, sir; the order read something like this, if I remember right: "Corporal Means: Have 200 rounds of ammunition brought from the storeroom and Mr. Creager will call for them in the morning," or in the afternoon I think it was.

Q. This was a written order you received?—A. Yes, sir; a kind of a pencil notation; yes, sir.

Q. Did you give them to Mr. Creager?—A. Yes, sir.

Q. How were they wrapped up?—A. They were just wrapped up in paper.

Q. They were in the original boxes—pasteboard boxes—with a paper around them?—A. I think so; I did not open them at all.

Q. The artificer handed you the paper package consisting of these 200 rounds and you gave them to Mr. Creager?—A. Yes, sir.

Q. Where did you give them to him?—A. In the orderly room; he called for them.

Q. Did he pay you anything for them?—A. No, sir.

Q. Do you know for what purpose they were intended?—A. No, sir.

Q. Do you know what was done with them after he got them?—A. No, sir; but I suppose for hunting purposes. I didn't ask about that at all; it was none of my affairs. I was just carrying out orders of the company commander.

Q. Have you that penciled slip giving the order?—A. No, sir.

Q. Threw it away?—A. I think so; or laid it on the desk, probably, and became lost. I haven't seen it since.

Q. Did you remain at Fort Brown after the company left to come up here or to Camp Mabry?—A. No, sir; I came with the company.

Q. Do you know anything about some ammunition being sold there?—A. No, sir.

Q. Either in bandoleers or loose?—A. No, sir; I don't know anything about it.

Q. Did you see any loose ammunition around or behind the barracks or in the back yard after the company returned from Point Isabell from the target range?—A. No, sir.

Q. Have you made an examination of your company property in the company storeroom here recently?—A. Yes, sir.

Q. How long ago?—A. About two weeks.

Q. Can you swear positively, as the result of this examination, that there is no surplus rifle in your company now?—A. Yes, sir.

Q. Can you swear positively that you do not know or have not heard of any rifles being disposed of that were surplus in your company?—A. That were disposed of?

Q. Yes; has anybody disposed of any surplus rifles I mean?—A. No, sir.

Q. You have heard nothing and know nothing, excepting those remarks and reports that have been going around your company?—A. That is all, sir.

Q. Know nothing of your own knowledge and have never seen any?—A. No, sir.

Q. Was it the custom down at Fort Brown, owing to the difficulty in getting supplies in the way of sporting goods—was it not the custom to loan to reliable citizens in town ammunition to be returned at such time as they could get their supplies?—A. Yes, sir.

JOSEPH J. BARNETT, being sworn and questioned by Lieutenant-Colonel French, Twelfth Infantry, testifies as follows:

Q. What is your name, rank, company, and regiment?—A. Private Joseph J. Barnett, Company K, Twenty-sixth Infantry.

Q. Were you in Company K at Fort Brown?—A. Yes, sir.

Q. Did you remain at Fort Brown after the company left to come up here some time last summer?—A. Yes, sir.

Q. Did you or your party clean up the barracks after the company left?—A. Yes, sir.

Q. What did you find in reference to clothing and ammunition there?—A. Well, there was quite a lot of cast-off clothing that had been worn by the men and quite a lot of loose ammunition that was left.

Q. What kind of ammunition was this?—A. Both the Springfield and the Krag-Jørgensen.

Q. Any Springfield ammunition in bandoleers?—A. Yes, sir; there was one bandoleer that I know of.

Q. Where did you find that?—A. That was found in the first sergeant's room.

Q. Who was the first sergeant at that time?—A. Sergeant Rose.

Q. Whereabouts did you find them?—A. It was hanging behind a curtain. We hung his clothing upon a wire which held the curtain and the ammunition was hanging behind this curtain.

Q. What disposition was made of this loose ammunition?—A. Well, as we cleaned up the squad room, we swept out, and picked up the loose ammunition and put it in a box. As well as I remember it was an ammunition box. It was dumped in there and put out on the back porch, but what became of it I don't know; it was all thrown

in there loose. Those little Mexican boys were hanging around, and when we would throw out any articles of clothing they would grab them and run with it, and I am under the impression that these Mexican boys carried the ammunition off with them. I think they did. I can not swear that they taken it, but I think they did. At least it disappeared.

Q. Who was in charge of your party?—A. Sergeant Snyder.

Q. He is here now?—A. No, sir; he is discharged.

Q. Do you know where he is?—A. I think he is in Washington—Washington State.

Q. Is he in the service now?—A. No, sir; not unless he has recently reenlisted.

Q. Was any of this surplus ammunition sold that you know of?—

A. Not to my knowledge; no, sir.

Q. Was any of it given away? Any that you know of?—A. No, sir.

Q. About how much loose ammunition was there?—A. There must have been—that is, including both the Springfield and the Krag—between five and six hundred rounds, but there was more of the Krag than there was of the Springfield.

Q. Where was this ammunition?—A. Out on the back porch.

Q. Was there not room on the inside of the quarters?—A. Well, we were cleaning up, sweeping the room, cleaning off the shelves, and we threw the ammunition out in the box and carried it out on the back porch—we could not leave it in the quarters.

Q. You testified that this ammunition disappeared—how do you know that it disappeared?—A. Well, when we got through in the afternoon I came back to look for it and looked in the box and it was gone; I do not know where it went or anything about it.

Q. Could it not have been taken indoors. Could not the sergeant have put it away and you not have known?—A. No, sir; I looked in every room in the building. I remained in K Company's quarters until I came up here—slept there.

Q. Did you say anything to the sergeant about it?—A. No, sir.

Q. Was there no conversation at all about it?—A. There were no questions asked about the ammunition at all more than was made by me. I remarked, "I wish I was going a hunting; I would have all the ammunition here I would want," and some one says, I don't know who it was, he says, "It is a pity." I am under the impression, but I can't swear to it, that those little Mexican boys, scavengers, we called them, carried it away, because they were grabbing everything we threw out in the yard, taking cast-off clothing and everything.

Q. Did you find anything else in the company barracks besides ammunition and clothing?—A. No, sir; that is all.

Sergt. CHARLES A. McCARTY, being sworn and questioned by Lieutenant-Colonel French, Twelfth Infantry, testifies as follows:

Q. What is your name, rank, company, and regiment?—A. Sergt. Charles A. McCarty, K Company, Twenty-sixth Infantry.

Q. How long have you been in K Company?—A. Ever since it has been organized, except about nine months when I was absent.

Q. Were you with the company at Fort Brown, Tex.?—A. Yes, sir.

Q. Did you have charge of the company storeroom at any time while you were there at Fort Brown?—A. No, sir; I never did.

Q. How long have you been a sergeant of the company?—A. Four months.

Q. Were you ever company clerk at any time?—A. No, sir.

Q. Artificer?—A. No, sir.

Q. Sergeant, have you heard at any time in the company that there were any surplus rifles? Have you heard any report or talk among the men at any time that there were surplus rifles?—A. No, sir; I don't remember of ever hearing anything in regard to surplus rifles. I heard there were surplus rifles, but never gave it much thought.

Q. What I mean by surplus rifles is rifles not carried on the company return.—A. What I always supposed were surplus rifles was rifles in the storeroom not on the company papers.

Q. Were you with the company in the Philippines?—A. Yes, sir.

Q. What do you know about the wrecking of a casco or barota out there with rifles and other Government property aboard.—A. There was one wrecked while we were on the way to Nueva Caceres.

Q. Give me the circumstances.—A. All I know in regard to it the boat sunk. I suppose the rifles went down with it, because four men were drowned among one of the companies. Others swam ashore and they left their rifles.

Q. Rifles went down with it?—A. Yes, sir; I suppose they did; I do not know; but I don't suppose they swam ashore with them, as they had to swim almost half a mile.

Q. Did they ever get any of these rifles?—A. Not to my knowledge.

Q. Did you ever hear any remark in the company or elsewhere that any of these rifles that went down with the boat had been secured later on?—A. No, sir. We went direct from there to Samar and never returned there at all until a year and a half afterwards.

Q. And never heard of the rifles being secured at that time?—A. No, sir. I was a new man in the company at that time and did not know what the army regulations were, and if I had heard it I would not have given it much thought, because I would not have realized what they were talking about.

Q. Then you have heard nothing at all in reference to the company not accounted for on the company papers—in other words, surplus rifles?—A. No, sir; except that I heard some of the men talking about this case here.

Q. What did you hear?—A. I heard that an investigation was being made about surplus rifles in K Company. That is all I heard.

Q. Do you know where Sergeant Short is?—A. No, sir.

Q. Do you know where Sergeant Cheeseman is?—A. I heard that Cheeseman was in Alabama somewhere.

Q. What place in Alabama?—A. I do not know; I heard it, but I don't remember the name.

Q. Who told you he was there?—A. I don't recollect. It was just after he was discharged, I asked somebody where he was and he told me Alabama. I asked where he lived, because he went away with our library fund—I was interested in that.

Capt. HANSON E. ELY, being sworn and questioned by Col. F. H. French, Twelfth Infantry, testifies as follows:

Q. Please give your name, rank, regiment, and your command now.—A. Hanson E. Ely, captain, Twenty-sixth Infantry, commanding Company K, Twenty-sixth Infantry.

Q. How long have you been in command of the company?—A. Since the 9th of December, 1906.

Q. Have you at any time made a careful inventory of the company property, the property that you were accountable for?—A. Yes, sir. On or about the 2d of January I took an inventory to see that all the property reported turned over by the preceding company commander, First Lieutenant Richardson, was on hand, and found it to be there. Since the report of the Senate investigating committee, in Washington, was published, about six weeks ago, I took Lieutenant Richardson with me and made a careful inventory for the express purpose of ascertaining if there was any Krag ammunition or rifles in the storeroom, because it had been stated that there had been some at Brownsville; but I could not find any whatsoever.

Q. You received the property from whom?—A. Well, I received it from Lieutenant Richardson, but I receipted to Captain Kilburn for it. Between the administration of Captain Kilburn and myself, for a certain period, Lieutenant Richardson had command of the company, but did not take over the ordnance, and I receipted directly to Captain Kilburn for the company ordnance.

Q. Did you ever hear anything as to the character of Sergeant Cheeseman since he has been discharged?—A. I only know what the first sergeant and the quartermaster-sergeant have told me in reference to a company library fund. I inquired about the library which we are getting up for use in the Philippines, and they told me that Sergeant Cheeseman, who was formerly the quartermaster-sergeant of the company, had collected a sum from the men of the company, I think about \$27, and that he carried this away with him. That is all I really know about his character.

Lieut. MACK RICHARDSON, being sworn and questioned by Lieut. Col. H. F. French, Twelfth Infantry, testifies as follows:

Q. Please state your name, rank, regiment, and company.—A. Mack Richardson, first lieutenant, Twenty-sixth Infantry, K Company.

Q. Were you in command of K Company at any time during the past year?—A. Yes, sir; I was in command of K Company from the 9th or 10th of September until the early part of December. I think Captain Ely relieved me—that is, I was nominally in charge, but I was on sick report most of the time—was on sick report from the 1st of October to the middle of February.

Q. Who was really in command of the company at the time you were on sick report?—A. I think Mr. Gillis was in command at the time.

Q. Did you take any inventory of the property or receipt for the property?—A. I did, sir.

Q. What did you find when you made your inventory?—A. Well, I took the property over from Lieutenant Parker, who had, or had

had charge of the company. I only made a hurried inventory—just satisfied myself that all of the property was there.

Q. When was this?—A. That was long about—must have been about the 7th or 8th of September.

Q. Did you go into your company storeroom at that time?—A. Yes, sir; made inventory of the property in the storeroom at that time; yes, sir.

Q. Did you find any surplus rifles or ammunition in the company storeroom at that time?—A. We found no surplus rifles, but I did not count the ammunition—I just took his word for it. There was some in the storeroom, but whether there was any surplus I do not know.

Q. Did Lieutenant Parker tell you anything about any rifles being surplus at that time?—A. No, sir; he did not mention it.

Q. Did you hear anything about the company having any surplus rifles at that time?—A. At that time; no, sir.

Q. Or any other time?—A. Nothing until this testimony was given before the Senate committee at Washington. When the question came up Captain Ely and I went down and took inventory of the property in the storeroom.

Q. What was the result of this inventory?—A. We found no surplus rifles at all.

Q. How long have you been connected with Company K?—A. Only since September.

Q. Only since September?—A. Yes, sir. I was adjutant two years prior to that time, battalion adjutant.

Q. Of the Third Battalion?—A. Yes, sir.

Q. At any time have you heard of any rifles being surplus in K Company or in any of the other companies?—A. I don't remember, sir, of having heard anything.

Q. At no time?—A. No, sir. If I did I don't recollect it now.

Q. By surplus I mean the usual acceptance of the term—that is rifles that are not on the papers.—A. Not on paper; that is what I understood.

Q. Have you ever heard of the numbers on any rifles being obliterated?—A. Nothing only what I saw in the newspapers giving the testimony in Washington.

Q. Did the first sergeant of the company, the quartermaster-sergeant, or the artificer, or any other man make any report to you that there were surplus rifles or that there was surplus ammunition in the company at the time you took charge or any other time?—A. I think not, sir.

Q. You would probably remember it if a report like that had been made to you?—A. Yes, sir; I would.

Q. And you are positive no report was made to you at any time?—A. Yes, sir; at any time.

Lieut. GEORGE S. GILLIS, being sworn and questioned by Lieut. Col. F. H. French, testifies as follows:

Q. Please state your name, rank, regiment, and company.—A. George S. Gillis, first lieutenant, Twenty-sixth Infantry.

Q. And on duty with what company?—A. I am at present on duty with the machine-gun platoon, Second Battalion.

Q. What company were you connected with last year, 1906?—

A. I don't remember the dates. I was with G Company and E Company since I was relieved as battalion quartermaster in 1904. I was assigned to E Company, and upon my promotion was transferred to another regiment and assigned to G Company.

Q. Were you on duty with K Company at any time in 1906?—

A. Yes, sir.

Q. What time was that?—A. I don't recollect the dates.

Q. About what time of the year?—A. I can't remember.

Q. Who was in command of the company at the time?—A. Lieut. Mack Richardson.

Q. Did you command the company part of the time, or was Lieutenant Richardson nominally in command of it?—A. No, sir; he was not.

Q. Now, is there no way in which you can determine the dates when you were in command of the company?—A. Yes, sir; I have my orders, I can get them in just a minute.

Q. Please get them.

(Leaves room, returns with book.)

A. On October 2, 1906, I was ordered to take command during the sickness of Lieut. Mack Richardson, of Company K, Twenty-sixth Infantry.

Q. Did you have anything to do with the company prior to October?—A. Not during that year.

Q. Now, when you took command, did you make an inventory of the property or take over the property?—A. No, sir; I did not.

Q. At any time while you were connected with the company last year did you hear anything of any rifles being surplus in the company; that is, rifles in the company not carried on the papers?—A. No, sir; I did not.

Q. Did any noncommissioned officer or any officer tell you that there were any surplus rifles in the company?—A. No, sir.

Q. Did the artificer make such report or tell you that there were surplus rifles in the company at that time?—A. No, sir.

Q. Do you know of any rifles being surplus in that company at any time?—A. No, sir; I do not.

Q. Or any other company?—A. No, sir; I do not.

Q. Did you have anything to do with or were you in command of K Company at any time in the Philippine Islands?—A. Yes, sir.

Q. When was that?—A. I joined K Company in July, 1901, and assigned to a platoon of that company. I was with the company about a month when I was assigned to Company M. I was transferred in September to Company H and did not return to Company K until September, 1902, I believe.

Q. When you were with K Company in the islands did any accident happen to a casco or barota by which some of the company property was lost?—A. No, sir; not while I was with the company.

Q. Did you hear of any accident that happened to K Company's property by the sinking of a barota or boat of any kind over in the islands?—A. All I know was learned from reading the public documents that supported that fact, which was evidence about a board of survey.

Q. Were you a member of that board?—A. No, sir.

Q. Why did you happen to read the documents, then?—A. I don't remember, sir. It occurs to me that I saw such evidence as that on the company records that there had been property lost, but that is very vague in my recollection.

Q. According to your recollection of what you read or heard at any time, what property was lost; I don't mean the exact amount, but the class of property?—A. Well, sir, that is very hard to answer, because to my recollection there was property from other companies, and some men, I believe, were drowned at the same time, but I have a very slight recollection of what was lost.

Q. Name some of the classes of property that you do remember.—A. Well, ordinary company property, I believe; some tentage, men's clothing, ammunition, and rifles, I believe.

Q. Have you had any conversation with anybody in reference to this loss?—A. I don't recollect any particular conversation. I was stationed with Lieutenant Johnson of my company afterwards and he gave me quite a full account of the occurrence in a general way.

Q. Where is Lieutenant Johnson now?—A. I believe he is on leave now.

Q. Did he belong to Company M at that time?—A. Yes, sir: battalion adjutant.

Q. How did you have access to these records?—A. I don't remember anything definite about that. It seems to me that what I saw of this was in the company records of M Company. I am not sure I saw it anywhere else.

Q. Were you informed by anybody at any time that in consequence of this accident there were any surplus rifles in either M or K Company?—A. No, sir.

Q. Did you have command of K Company in 1903?—A. Yes, sir: I took command about April 1, 1903—relieved Capt. D. W. Kilburn. Twenty-sixth Infantry.

Q. Did you take an inventory of the property at that time?—A. Yes, sir; I did.

Q. Did you find any property that was surplus?—A. To the best of my recollection, no; I did not.

Q. Did you make a careful inventory?—A. No, sir; I did the usual way of taking over ordnance property, checked it up and signed the receipts.

Q. And did you go through the storeroom?—A. Yes, sir.

Q. And saw no surplus guns there?—A. No, sir.

Q. Did not hear of any surplus guns in the company?—A. No, sir; not to my recollection. I did not.

Q. If you had heard it you would remember it now?—A. Yes, sir; I would have investigated.

Q. And you know of no surplus guns in the company?—A. No, sir.

Q. Did you turn over any guns that were surplus to your successor?—A. No, sir; he receipted for the same number of guns that I did.

CHARLES ROSE, being sworn and questioned by Lieut. Col. F. H. French, Twelfth Infantry, testifies as follows:

Q. What is your name and present occupation?—A. Charles Rose, motorman for the Transit Company.

Q. And your present residence?—A. 315 North Picket street.

Q. Have you ever been in the service—in the Army?—A. Yes, sir.

Q. What was your service, different grades, company, and regiment?—A. I was in the infantry—K Company, Twenty-sixth Infantry—as private, duty sergeant, quartermaster-sergeant, and first sergeant.

Q. Were you with K Company at Fort Brown in 1906?—A. Yes, sir.

Q. Did you serve in the company in April, May, and June, 1906?—A. Yes, sir.

Q. What rank did you hold then?—A. First sergeant.

Q. As first sergeant did you have occasion to go into the storeroom?—A. Yes, sir.

Q. Were you in the storeroom?—A. Yes, sir.

Q. Did you ever see there or any place else any surplus rifles; that is, rifles that were not borne on the property return?—A. No, sir.

Q. Did you ever hear of there being surplus rifles in the company?—A. No, sir.

Q. No surplus rifles of any kind?—A. No surplus rifles of any kind to my knowing; never heard of any.

Q. All the rifles that were in the company that you know of or heard of were accounted for on the paper?—A. Yes, sir; on the ordnance returns.

Q. Were you with the company in the Philippines?—A. Yes, sir.

Q. Do you know anything about the sinking of a boat over there with company property?—A. I heard of such a thing; yes, sir. I was private in the company at the time, and, so far as I was concerned, I did not know the least thing about it, sir. I just heard about a boat being sunk in the river.

Q. You were there at the time it was sunk?—A. I was in town; yes, sir.

Q. Did you go to the shore to see the wreck or anything of that kind?—A. No, sir. We were stationed in town—the river was about a mile away and I didn't go down there at all.

Q. As a consequence of this boat sinking, have you ever heard of any guns being surplus in the company?—A. No, sir.

Q. Of no property being surplus in the company?—A. None, whatever.

Q. When were you discharged?—A. The 28th of July, 1906.

Q. Did you come up here with the company?—A. No, sir; I left the company in Austin.

Q. You were discharged at Austin?—A. At Camp Mabry; yes, sir.

Q. Who was the artificer of the company at the time you left it last July?—A. At the time I left the company last July?

Q. Yes.—A. I think it was Artificer Ryan, if I am not mistaken; but I am not positive.

Q. He was artificer at Fort Brown?—A. Yes, sir; part of the time.

Q. Was he artificer when the rifles—the Krag rifles—were packed to be turned in?—A. Yes, sir.

Q. Did he ever tell you or make any report to you about being ahead some rifles down there?—A. No, sir.

Q. Who was quartermaster-sergeant down there?—A. Sergt. Joseph Cheeseman.

Q. Did he ever make any report to you about surplus rifles?—A. No, sir.

Q. Did you have anything to do with the company fund?—A. No, sir.

Q. Did you make any return of it or know how it, or any of it, was spent and what it was spent for?—A. Yes, sir; I always knew how much there was and what it was expended for, but the company commander always kept the company funds.

Q. And expended the money—bought things for the company?—A. Yes; he and the quartermaster-sergeant.

Q. The quartermaster-sergeant bought things for the mess at times?—A. Yes, sir.

Q. Do you know of any ammunition being sold?—A. No, sir.

Q. And the proceeds being used for the benefit of the company mess?—A. No, sir.

Q. Did you hear at any time that ammunition was sold there or elsewhere?—A. No, sir.

Q. Or given away or exchanged for anything?—A. No, sir.

Q. No transaction of that kind?—A. No, sir; none whatever, to my knowledge.

Q. Is it possible if surplus ammunition had been sold by the quartermaster-sergeant and the money used for the benefit of the mess you would have heard of it?—A. Yes, sir; I was right there all the time, and it looks like if anything like that would have occurred I would have been one of the first to have known it.

Q. And you know of no transaction of that kind?—A. None whatever.

Q. Either there or elsewhere?—A. No, sir.

Q. Did you hear or have you any knowledge or have you heard any report of Captain Kilburn having a Krag rifle that was not on the company papers?—A. No, sir.

Q. Do you know of any rifle being given or issued to Doctor Church, who was down there with you?—A. No, sir.

Q. Wasn't a rifle issued to him for target practice?—A. Not from our company. If there was, I don't recollect it.

Q. Was a rifle sent over to the captain's quarters down there—Captain Kilburn's quarters?—A. No, sir; not by me.

Q. Do you know of any that was sent over there?—A. No, sir.

Q. Ever hear of any that was sent over there?—A. No, sir. The captain used a rifle while on the range with the company, but the rifle was always kept in the storeroom and cleaned by the artificer and never went out except when the captain was actually using it on the range.

Q. Was there ever a rifle in Lieutenant Schmidt's quarters?—A. Not to my knowledge, sir.

Q. If there had been one there, would you have known it or not?—A. Well, yes, sir.

Q. And you know of none there in his quarters?—A. No, sir.

Q. Either issued or given to him?—A. No, sir. He was not issued a rifle. He used one of the company rifles, but it was kept in the storeroom except when he was actually using it. If there was ever any in his quarters it was just after he had returned from the range and only kept it there a short time until it could be sent to the storeroom; but so far as a rifle being issued to him there is nothing about it to my knowledge.

Q. Did you know Post Quartermaster Sharp?—A. Yes, sir.

Q. Was there ever any rifle ever given to him from the company?—
A. No, sir; not to my knowledge. I was a duty sergeant when he left Fort Brown. I was not first sergeant of the company at the time; I was duty sergeant; but I never knew of any rifle being given him.

Q. Did he take any rifle away with him?—A. I don't know, sir. If he did, I don't know it. I never saw him when he went away.

Q. You were present with the company, were you, when it returned from the target range at Point Isabell in 1906?—A. Yes, sir.

Q. Did you see any loose ammunition or ammunition in bandoleers around the quarters?—A. No, sir; we had all the ammunition in a box and shipped it back by train and stored it in the storeroom. There was no loose ammunition at all.

Q. It has been testified by Corporal Ryan, I think, that there was a box of loose ammunition on the back porch there—Corporal Ryan or Private Jebb has testified to that effect, Sergeant. Do you know anything about that?—A. No, sir; I don't know of any loose ammunition there, because we were very careful about ammunition and rifles, and always as soon as we were through at the range all the ammunition, empty shells, was shipped back and placed in the storeroom under lock and key.

Q. Was it reported to you that one or two bandoleers of ammunition had been left open in the orderly room or in one of the small rooms of the barracks when the company left Brownsville?—A. No, sir.

Q. No report of that kind, and never heard of any such surplus?—A. No, sir.

Q. When did you last see Sergeant Cheeseman?—A. I don't just recollect what date, but it was along about the last of September, last year.

Q. And whereabouts was that?—A. It was down at my house on North Flores street.

Q. Was that before or after he was discharged?—A. After.

Q. How long after he was discharged?—A. He was discharged some time in August and this was the latter part of September.

Q. Had the company returned at the time he was at your house?—A. No, sir; the company was still at Austin.

Q. Do you know where he is now?—A. No, sir. I have not heard from him since he left—last September.

Q. Do you know where he could be addressed by letter?—A. No, sir; I don't know his address if he was at home. I think it is some place in Mississippi.

Q. Sergeant, you know Artificer Ryan, of K Company?—A. Yes, sir.

Q. What is his reputation for truthfulness?—A. Good, so far as I know, sir.

Q. Have you ever heard anything derogatory to his truthfulness in any way?—A. No, sir. He was always a straightforward, trustworthy man as far as I knew. I was in the company with him three years.

Q. And how about Sergeant Cheeseman?—A. Sergeant Cheeseman was the same.

Q. Thoroughly reliable?—A. Yes, sir. Sergeant Cheeseman I would personally trust with anything.

Q. Did you ever hear that Sergeant Cheeseman had taken away some money that the men in the company had contributed to a library fund?—A. I heard it after he was discharged and it was a great surprise to me.

Q. Now, Corporal Ryan has testified that there were six surplus guns in the company and that he, by the direction of Sergeant Cheeseman, erased the numbers on these six guns; that when he came up where he saw two of the guns in the storeroom, but he does not know what has become of them. What do you think about his testimony?—A. Well, if there was ever any surplus guns around the company I certainly would have known it. I was first sergeant of the company and had the keys to the storeroom. Ryan was artificer most of the time, but if there had been surplus guns in the storeroom I certainly would have known it. His testimony, I think, must be untrue—you asked me what I thought of it?

Q. Yes; but there was nothing to be gained by telling an untruth, was there?—A. No, sir.

Q. Is there any reason you can think of for him to make a statement of that kind when he knew it was untrue? Now, would a man make a statement that was untrue without having a reason for it?—A. It does not seem that he would. I don't see that he would gain anything by telling an untruth—it was nothing to him.

Q. Nothing, except that he was under oath, he was testifying as a witness under oath. Who kept the keys to the storeroom?—A. The quartermaster-sergeant kept them the most of the time. The quartermaster-sergeant or myself.

Q. Did the artificer have keys to the storeroom?—A. No, sir. When he wanted to go in there and work he would do so in our presence. It was seldom that the storeroom was left unlocked. The quartermaster-sergeant might have left it unlocked if the artificer was working in there to be gone a short time, but not long at a time.

Q. Could the quartermaster-sergeant or the artificer have taken any gun out of the storeroom and disposed of it without your knowledge?—A. Yes, sir; they could have done it; because the quartermaster-sergeant had keys and had access to it when I would be in the orderly room at work—that is on the other side of the building. Such a thing was possible, but not probable.

Q. Sergeant, was it an easy matter for the men to get surplus ammunition if they wanted it—that is, more ammunition than had been issued to him and that he was accountable for on the property book?—A. You mean while he was on the range?

Q. At any time—on the range or in the post?—A. No, sir; it was not an easy matter at all in our company, because the ammunition was issued to each man on the range as he used it, and on coming from the range the ammunition was packed up.

Q. How about a man losing a few rounds of ammunition; could he go to the quartermaster-sergeant, tell him that he had lost it, and have it replaced?—A. Yes, sir; I suppose he could, but I never saw a case like that happen in our company. The ammunition was issued to the men in our company right on the firing line and he would have no excuse to lose it.

Q. Suppose he did not fire the number of rounds that was issued to him and put it in his pocket, couldn't he get a surplus that way?—A. Yes, sir; he could do it.

Q. And in the garrison, suppose a man on guard duty lost some ammunition out of his belt while on guard or at drill, could go to the quartermaster-sergeant and get it replaced?—A. Yes, sir; but the ammunition used in the garrison is entirely different from that used at the target range—that is multi ball.

Q. Was there any other ammunition than multi-ball ammunition carried in the cartridge belts?—A. When they were actually guarding prisoners the ball ammunition was used.

Q. And if he should lose some of the ball ammunition, could he go to the quartermaster-sergeant and have it replaced?—A. Yes, sir; I suppose he could.

Q. And when a man wanted to get ahead in ammunition that he wanted to give away or sell, he could get it by telling that he had lost what had been issued to him?—A. I suppose he could. It never happened in our company. I never replaced a single cartridge, but I suppose such a thing could have been done.

Q. Was Corporal Ryan, as he is now, at work in the quartermaster's department?—A. Yes, sir.

Q. When was this?—A. I don't recollect the dates.

Q. About what time?—A. I could't say even within a month of the time. It has been a couple of years ago, the last of 1905 or first of 1906; I forget.

Q. And what was the reason he was relieved?—A. Well, I don't now. I can not state the exact reason he was relieved. It has been so long ago I can't recollect. He was relieved by the quartermaster or something; I can not state. I have forgotten what.

Q. At the request of the quartermaster?—A. Yes, sir; he was relieved at the request of the quartermaster. I can not state exactly, but I think it was for misconduct.

Q. To the best of your recollection, was it for misconduct or was it because the funds had run out or because there was not more work for him to do?—A. There was plenty of work there for him to do. It was something the quartermaster had him relieved for—I have forgotten—I knew at the time, but I have forgotten what it was. I now he was relieved at the request of the quartermaster for something. I recollect the quartermaster on two or three occasions was going out through the town picking up quartermaster property. This man was in the quartermaster's department.

Q. Was Ryan company artificer when the company was up at Ringgold in 1905?—A. To the best of my knowledge he was artificer and was relieved while we were there.

Q. What was he relieved for?—A. I recollect that mighty well—for neglect of duty.

Q. Was there any report or any remarks connecting Ryan with the sale of Government property at any time that you know of?—A. Well, I don't recollect of any. But, as I stated a while ago, he was at work in the quartermaster's department and the quartermaster was going around the town picking up Government property and Ryan was relieved, but whether he was accused of selling anything I can not say; I don't recollect.

Q. What duty was he on the quartermaster's department?—A. He was just laborer as far as I recollect.

Captain KILBURN—Recalled.

Q. Captain, you understand you are still under oath?—A. Yes, sir.

Q. Did you ever hear anything derogatory to Corporal Ryan's reputation as a trustworthy and reliable man?—A. Yes, sir. I was on leave from December 8, 1904, to May 2, 1905. When I returned and took command of the company in May, 1905, it was reported to me—I am not sure whether it was Lieutenant Leckie or Lieutenant Parker; I remember I talked with Lieutenant Leckie about it afterwards—that Ryan had been relieved as laborer in the quartermaster's department on account of quartermaster property going out from the storeroom. There was no direct evidence against him. I probed the matter as well as I could at that time, but could find no evidence. I did not pay very much attention to it. What makes me speak so positively about it at this time, that I did not pay much attention to it at the time—did not attach much weight to it—was that a short time after this I made him artificer first, I think, and afterwards made him a corporal. I was sent over to New Orleans on a general court-martial case in July, 1905, and while I was away Lieutenant Parker reduced Ryan. Lieutenant Parker reported to me that this man Ryan had a common-law wife down at Brownsville and there had been a good deal of shooting outside there, and there was something connecting Ryan with a company revolver and some shots fired; I forget exactly, but it was something of that kind. I looked into the matter, but could find no evidence one way or the other sufficient to put him before a summary court, and reduced him to the grade of private. Now, my recollection is, but I am not positive—I could tell by referring to the company records—whether the reduction made by Lieutenant Parker was made before or after target practice of 1905. I had always looked upon, and still do, Ryan as an honest and faithful man, but I think that Ryan when not in the company is a great talker—I am giving you this as my personal knowledge of the man. I believe he draws conclusions and he says anything & much, even when there is no truth in it, that he finally believes in himself. I do not say that he would deliberately say anything to depart from the truth, but he is excitable and of a nervous disposition. Yet I would be willing to send Ryan downtown with a hundred dollars to deposit for me. That is my opinion of the man. I might add a little to that. When the clipping from the Washington Post was referred to me for explanation I asked Captain Ely to see Ryan—I did not care to see Ryan myself—I did not want it to appear that there was any collusion or attempt at collusion. I sent for Ryan and in the presence of the judge-advocate, Capt. Charles E. Hay, had him questioned and he voluntarily made the statement at that time in the presence of Captain Hay and myself that the clipping was entirely wrong in a great many respects, and I picked out the statements and asked him if so and so and such and such were the answers meant by him, and he said no. I had affidavits made—written out by the clerk in the chief quartermaster's office. There were three affidavits in triplicate and Ryan at the same time by Captain Hay. The affidavits were read over to him carefully before signing. One copy was given to him; I kept two copies, one to forward with the papers and one to keep with my papers as a retained copy. After I had him brought before the judge-advocate of the

summary court and sworn, because I went up and had a talk with General McCaskey, the department commander, relative to this matter, and he told me, "I want a full report, because if it does not cover every point, I will have to refer it to my judge-advocate for investigation and report." After reading this affidavit of Ryan over they would compare it with the testimony quoted in this clipping and the question would naturally arise, "This man made two different statements; which is correct?" Then I called Ryan up and showed him just exactly what he had done, and told him, "I want to know whether you are going to stand by this or stand by the other testimony," and he stated he was convinced that he was nervous and rattled before the Senate committee. I added that last statement to his affidavit and in order not to embarrass the judge-advocate of this department in case it was referred to him, I went to the judge-advocate and explained the matter.

Q. Now, Corporal Ryan has testified positively that there were six surplus rifles in the storeroom of K Company, that he altered or raised the numbers on them, and that they were not shipped back with the other rifles that were turned in to the arsenal. He states also that he saw two of these rifles in the company storeroom after coming up here. He testified to the same effect as to the six rifles before the Senate committee. Do you think this testimony could be accounted for by any explanation that he has made in his affidavit?—

A. Frankly, I do not.

Q. Is there any reason that you know of that he could have for making these statements if they were not true?—A. No, sir; I don't know why he made a statement like that. It seems preposterous that a man would voluntarily, without some motive, make up a story like that out of his own mind.

Q. Is there any reason he could have had—any grudge against you—to account for his stating these things?—A. Not that I know of. I always tried to treat him fairly. I had to punish him several times, but believe he realized the punishment was justifiable.

Q. Is there any reason he could have done this in order to be re-engaged on Sergeant Cheeseman?—A. Not that I know of. I think that their relations were amicable. If there had been any friction, I think Sergeant Cheeseman would have come to me and asked to have him relieved, as he did on one or two other occasions in regard to other artificers. The point I make in the whole investigation, Colonel, is this: If there were any rifles there—I do not know whether there were or not—they were there without the knowledge, consent, or acquiescence of the four or five company commanders that have been in charge of the company since they left the Philippines. If there were any surplus rifles in the company, I was not cognizant of it, and I do not know of it even to this day.

Private HENRY WATSON, being sworn and questioned by Lieut. Col. F. H. French, Twelfth Infantry, testifies as follows:

Q. What is your name, rank, company, and regiment?—A. Henry Watson, Company M. Twenty-sixth Infantry.

Q. Rank?—A. Private.

Q. Were you with your company at Fort Brown in 1906?—A. Yes, sir.

Q. Did you remain behind when your company left Fort Brown to come up here or to go to Camp Mabry?—A. Yes, sir.

Q. Did you see any bandoleers with ammunition in them around in the barracks?—A. I saw empty bandoleers—none with ammunition in them.

Q. Did you see any ammunition in bandoleers hanging in the orderly room of K Company or any of the small rooms?—A. No, sir; I was not in K Company barracks.

Q. After the company left you know nothing at all about any bandoleers of ammunition being left in any barracks?—A. There was lots of loose ammunition left in M Company barracks, but none in bandoleers.

Q. What kind?—A. Both Krag and Springfield, also empty shells.

Q. What became of these?—A. I and Private Ward picked up the most of them we found and put them in a box as we cleaned up the quarters. When we were through we emptied them, and the good ammunition was put back in this box, while the clips and shells were put out on the dump.

Q. Was this loose ammunition placed out in the yard or on the back porch?—A. No, sir; the ammunition was left in the box. Afterwards I believe they were removed, at least they were not there when we came away. I remained with M Company quarters with the detachment for some time. I think this ammunition was there in the boxes all the time we stayed there. Then we were quartered in I Company barracks—the place had already been cleaned up, but there was no water there and we had to go back to use the water for bathing and washing to M Company. In M Company's quarters there were a lot of magazines and newspapers. We would go there and get these and go back to the other barracks to read. The building was open.

Q. Do you know what became of the ammunition that you picked up and had put in this box?—A. No, sir; I do not.

Q. Was it brought up here?—A. I think not. It was not brought up with us, because there was only one box.

Q. Was any of that ammunition sold?—A. Not that I know of. Just before we left there the Mexican boys asked for ammunition: said they could sell it and get a good price for it, but if any was sold I never knew it. I never saw any sold.

Sergeant MEANS—Recalled.

Q. You remember you are still under oath?—A. Yes, sir.

Q. Do you wish to make any modification or explanation of your answer to the last question?—A. Only that I misconstrued the meaning of the question. I thought that it meant sporting goods and ammunition or anything similar to that loaned to citizens in town awaiting their own supplies. We loaned such articles to them for their accommodation. That is the way I thought the question was meant, but as to loaning ammunition in particular, I don't know of a case previous to this one.

Lieutenant LECKIE.

Q. Please state your name, rank, and regiment.—A. Second Lieut. Harry G. Leckie, Twenty-sixth Infantry, Fort Sam Houston.

Q. Were you stationed at Fort Brown at any time in 1906?—A. Yes, sir; I was at Fort Brown up to June 2, 1906.

Q. Were you quartermaster there at any time?—A. Yes, sir; I was quartermaster there for about eighteen months. I was quartermaster up to June 2—eighteen or twenty months.

Q. Was Corporal Ryan employed in the quartermaster's department there while you were quartermaster?—A. When I relieved Lieutenant Thompson as quartermaster, Corporal Ryan, then Private Ryan, was a laborer in the quartermaster's department. He had been helping in issuing clothing and looked after the equipage and such work as that.

Q. Did you retain him as laborer in the quartermaster's department?—A. No, sir; I relieved him about two weeks after I was made quartermaster.

Q. Why did you relieve him?—A. Well, of course I could not say that Ryan took anything—I had no direct evidence against him and did not know it to be a fact, but I relieved him because I was missing stuff. At the time he was the only man who carried the keys and I relieved him—I did not consider him to be a man to be trusted with clothing, equipage, and such as that. I did not bring any charges against him because I had no testimony against him, except that I would go and count the stuff and see that it was there and afterwards not be there. For that reason I had him relieved.

Q. You heard nothing against his truthfulness and honesty?—A. No, sir; I never heard anything against his truthfulness.

Q. What reputation did he bear generally?—A. Well, he is a man that talks a great deal, easily excited.

Q. I mean as to truthfulness.—A. I do not know, I never heard anyone say anything against his truthfulness or honesty—only what I say myself—I had the man relieved for that reason.

Q. When you were at Fort Brown did you hear of any rifles being surplus in any of the companies there?—A. No, sir.

Q. Was there any report or rumor or anything of that nature?—A. Not to my knowledge.

Q. Did you ever hear of any ammunition being sold there?—A. No, sir.

Corporal RYAN—Recalled.

Q. Corporal, you understand you are still under oath?—A. Yes, sir.

Q. Did you authorize Private Jebb to see Mr. Fred Starck, of Brownsville, in reference to buying some ammunition from the company?—A. No, sir; I did not authorize him to see any person.

Q. Did you ask him to see Mr. Starck?—A. Did not ask him to see anybody, sir.

Q. When was this ammunition sold to Mr. Fields?—A. I am not positive about the date, sir. I do not have any recollection as to the exact date.

Q. About when?—A. It was somewhere during the spring of 1906, as near as I can come to it.

Q. Was it before or after the company went to target practice at Point Isabell?—A. I don't just remember, sir. There were so many things happening then, I don't know whether it occurred then or not.

Q. You testified that you saw a rifle in Captain Kilburn's quarters. Was that a Krag rifle?—A. Yes, sir.

Q. Now, when did you see it there, before or after you packed the Krag rifles to be turned in?—A. It seems to me that I have seen it there before and after, both, sir. I am not positive, but it seems to me like—no, I guess it was after that. We had not sent the Krags away, but it was after we had turned them in to the storeroom—they were not packed until the month of June, when the company was away. That was part of the reason I was left back and did not go to Point Isabell—to pack these rifles.

Q. Did you pack this rifle with the Captain's property for shipment up here?—A. If I did, I don't remember it. The Captain had a good many old rifles, sir, and I couldn't say exactly whether the rifle was among these or not: I don't remember seeing it.

Captain ELY. The Krag rifle is very different from the old Mausers you state Captain Kilburn had in his quarters—very different in appearance, is it not?

A. Yes, sir; there is quite a difference in the appearance.

Q. If there had been a Krag rifle packed among the effects of Captain Kilburn, you probably would remember it, would you not?—A. I think I would, sir.

Corporal RYAN. Colonel, I would like to make a verbal statement in regard to the transaction with Mr. Starck.

Colonel FRENCH. Any statement you make will be taken down and considered as part of your testimony; remember you are still under oath.

Corporal RYAN. Sergeant Cheeseman told me one day that he had some surplus ammunition for sale; that he wanted to sell it to get some more money to buy vegetables for the company, and things like that. and asked if I knew anybody in town that wanted to buy any. I told him I did not, and he said, "Don't you know some of those rangers or river guards that might buy some of it." I said, "I can't say myself, there is only a few of these men I know, but," I says, "probably some of the older men would likely know some man who would like to buy some of this ammunition," and he says, "Who would be a good man to put next to this," and I says, "Jebb is a man that is teaming for the Government and is probably acquainted with everybody in the city, in and out of the city," and I says, "He would be a good man," and just as I stepped out on the back porch I met Jebb and I told him what Sergeant Cheeseman had told me in reference to this ammunition, and told him if he seen anyone that wanted to buy any ammunition to send him to sergeant, and Jebb says, "All right, I will; I think I know a party who will take two or three hundred rounds of it," and I says, "Well, if you see him ask him about it and tell him to see the sergeant." The sergeant did not authorize me to make any statement to Private Jebb, he just asked me if I knew who would be a good man to sell the ammunition. I did not tell him to see any particular person, in fact, I did not know Mr. Starck.

Captain ELY. You say Sergeant Cheeseman asked you who would be a good man to put next to this?

A. Yes, sir.

Q. Did he mean that he wanted to keep this thing secret, this proposed selling of ammunition?—A. I don't know whether that was his intention or not; I did not think so at the time. The reason he asked, the way I interpreted his meaning, was that he wanted me to give him the name of some man that was well acquainted with those river guards, rangers, etc.

Private JEBB—Recalled.

Questioned by Captain ELY.

Q. This ammunition that you gave to the rangers—this ammunition was given to you for the purpose of hunting on this trip, or for what purpose?—A. Well, for the purpose of hunting or shooting birds or anything.

Q. It was not expected that you would account for it again?—A. No, sir.

Colonel FRENCH. Did you help Corporal Ryan, or Artificer Ryan, pack the Krag rifles that were turned in by the company at Fort Brown, around about May or June, 1906?—A. Yes, sir; a certain part of them. As I said, I was detailed on this special duty for shipping stuff to Point Isabell, and during the rest of the day had nothing to do except to take care of one horse, and I helped Artificer, now Corporal Ryan to oil a lot of these Krag-Jørgensen guns and to pack one box—I think I helped him pack one box—I think there were 20 put in that box.

Q. Did you, while you were in the storeroom then, see any guns that were not oiled or not to be shipped away?—A. Well, there were a number of guns that were never oiled, and I heard the quartermaster-sergeant say—I don't remember whether it was the morning we packed the guns or the morning before—but I heard him tell Artificer Ryan that he wanted those guns that had been picked out set aside.

Q. How many of the guns were there that he picked out?—A. Well, I could not say, only just what Artificer Ryan says. He says, "I am going to pick out the best of them," and I says, "Here is a good gun, mine," I says, "take that," and it was set on one side of the storeroom with others—four or five—there might have been five.

Q. Your gun was one of those that was set off to one side, was it?—A. Yes, sir; that is, if it was not changed. It was set to one side when I picked it out.

Q. Was it oiled and prepared for shipment?—A. No, sir; I don't think it was; I don't believe it was oiled.

Q. Who was the quartermaster-sergeant that gave Artificer Ryan orders to set these guns aside?—A. Sergeant Cheeseman.

Q. Did you ever hear what became of these rifles that were selected and set to one side?—A. No, sir; I did not.

Q. Did you ever hear any report or any statement—any rumor—as to what became of them?—A. Only what I read—what he gave in his testimony.

Q. What who gave?—A. Artificer Ryan.

Q. You never heard any statement in the company?—A. No; only a rumor.

Q. And what was that rumor?—A. That so and so has taken this gun; but I never paid any attention to the name.

Q. Did you hear that Sergeant Short had taken his gun away—

had bought his gun and taken it away?—A. Just a rumor, sir; I can not swear to it.

Q. I am asking you whether you heard that rumor?—A. Yes, sir; I have heard just a rumor that Sergeant Short bought his gun and took it away, but I don't know whether he took it away or not; I never saw him.

Captain ELY. You say that the quartermaster-sergeant had authority to sell this ammunition. Do you mean that the company commander had authorized this?

A. No, sir; I don't know whether the company commander authorized him to do it or not.

Q. Well, in speaking about selling ammunition to Mr. Starck, you stated to Mr. Starck that you "would see the parties about it." Did you purposely avoid giving the names of the parties who was to sell the ammunition to Mr. Starck—you did not want him to know who it was who was authorized to sell the ammunition?—A. I told Mr. Starck who wanted to sell it—that is, the quartermaster or artificer.

Q. You mean the quartermaster-sergeant or artificer?—A. Yes, sir.

Sergeant WESNER, being sworn and questioned by Lieut. Col. F. H. French, Twelfth Infantry, testifies as follows:

Q. What is your name, rank, company, and regiment?—A. Frank Wesner, sergeant, Company K, Twenty-sixth Infantry.

Q. How long have you been in Company K?—A. Two years the 2d day of March.

Q. Were you with the company in the Philippines?—A. No, sir.

Q. Were you with the Twenty-sixth Infantry in the Philippines?—A. No, sir.

Q. Sergeant, have you heard any story, any rumor, or any report that there were surplus rifles in your company at Fort Brown?—A. No, sir.

Q. Fort Ringgold or here?—A. No, sir.

Q. Never hear anything of the kind?—A. No, sir.

Q. Haven't you heard men speaking about it in the barracks?—A. Recently; ever since I read that report of Corporal Ryan; that was the first I knew about it.

Q. Did any of the men ever say the rumor was correct?—A. No, sir; I never heard anybody say anything about it.

Q. Have you heard anything about any ammunition being sold down there at Fort Brown?—A. No, sir.

Q. Know nothing at all about it?—A. No, sir.

H. M. FIELDS.

I have been sick all the time, but that day I crawled out into the warehouse, and the clerk told me that there were some cartridges for sale; that he had been told by the officer or enlisted man who had them for sale that they were cartridges belonging to guns that had been turned in, and they had a right to sell them. And I made the remark to him that I thought it was a thing they would never sell without authority. Another time I bought a gun and 1,000 cartridges from a driver named Voshelle, or Vohelle, a discharged soldier, a teamster. The gun was not an army gun, but a pump gun. The cartridges were the same that the other soldier brought here.

The man owed me a bill, and he turned in the gun and cartridges, and I paid him the balance. The man told me that Lieutenant Leckie, of the Twenty-sixth Infantry, had given him the gun and cartridges. I spoke to Lieutenant Leckie about it, and he told me he had a right to the gun, that it was his—Lieutenant Leckie's—gun, and he gave it to him—the driver. These purchases were made about a year ago, just before the Twenty-sixth went away; about a month before. There is not much sale for these cartridges, but the gun has been sold.

CONRAD L. CLOETTA.

The man came here himself—it's a soldier—and he asked me if he could sell some shells, and I told him I would see Mr. Fields. And Mr. Fields told me to ask him if he had authority to sell the shells; that he could buy them, as he wanted to resell them, without going into any trouble. I don't know the man's name, but he was a corporal or sergeant; I am not sure. He said that the cartridges were some surplus of the company and that they had orders to sell them. He didn't say anything about whether they were for the company mess or not. We paid him \$10 for the thousand rounds. I have the thousand shells here now, but the rounds that went with the gun has been partly sold. We bought part of a box with a gun—that is, we did not buy it; we were forced to take it to get a bill paid. We bought the gun from Voshelle—William Voshelle, I think. He was a teamster. He had been a soldier. He said that Lieutenant Leckie had made a present to him of the gun and shells—that is, I am not sure of the shells, but he made some reference to the gun—and that he was to leave, and he owed us a bill and wanted to give the gun and shells in payment. The man who sold us the thousand shells said they had a surplus; that they were about to leave and did not care to take them away.

Second Lieut. HARRY G. LECKIE.

Questioned by Colonel FRENCH:

Q. You understand you are still under oath?—A. Yes, sir.

Q. Do you remember a man by the name of Voshelle?—A. Yes, sir.

Q. At Brownsville?—A. Yes, sir; he was teamster for a while and corral boss under me.

Q. What do you know about his selling a gun and some ammunition to Mr. Fields there?—A. I gave Voshelle a box magazine Winchester rifle that shot 30/40 ammunition, which carried the same as Government rifles—that is, the old model.

Q. That is the Krag?—A. Yes, sir. And when I was down at Brown I saw the gun and he told me Voshelle had sold it to him.

Q. Who told you, Mr. Field?—A. Mr. Field; yes, sir.

Q. Did they show you the ammunition that he sold them?—A. No, sir. I saw the gun setting upon a shelf and I recognized the gun and asked where he got it and he told me that Voshelle had given it to him for a debt he owed him before he left.

Q. What did they say to you, if anything, about the ammunition he sold them?—A. He said nothing at all about any ammunition, the question never came up at all.

Q. Did you see any Government ammunition in the store when you were there at any time?—A. No, sir.

Q. They showed me a box about half full of Krag ammunition that they said had been bought with this gun from Voshelle, that he stated he wanted to dispose of it down there; that he was going away and did not want to take it away with him. Do you know anything about this?—A. The ammunition I gave him, sir, was soft point, same as is used for game purposes—some of it was soft point and some of it was short range, shot only 10 grains. I had used the gun at the target range, shooting the steel jacket, and it is possible the ammunition I gave him had a few rounds of Government ammunition. I could not say there was and could not say there was not. I put it all in a pile and gave it to him.

Q. In what shape was this ammunition? I mean was it in the boxes, the original boxes, or was it loose?—A. Some of it was loose. I think. All of it was put in a thousand-round box—piled in there.

Q. In pasteboard boxes?—A. Some of it was in pasteboard boxes like the Government 20-round boxes, I know that.

Q. This appeared to be original ammunition in the pasteboard boxes, 20 to the box, and packed in a wooden box like the Government uses in shipping ammunition?—A. I put it in one of those wooden boxes with a tin lining—the top had been torn off of it and I screwed it back together.

Q. About how many rounds did you give him; how many would you estimate?—A. I could not say, Colonel.

Q. Did you give him as many as 500 rounds?—A. I don't know, it might have been as many as 800 and it might not have been more than three or four hundred. There might have been other rifle ammunition mixed with it. I had three or four other rifles and bought ammunition for them—they were Winchesters and one Stevens. There might have been Government ammunition in the box as I had Government ammunition at different times.

Q. Was there as much as 500 rounds of Government ammunition in the box, according to your recollection?—A. No, sir; there was not that much, because I did not have that much to start with. I never had over a box or two at a time.

Q. You mean pasteboard boxes, one or two at a time?—A. Yes, sir; and maybe some scattered ammunition. I used a rifle for hunting purposes, but I never used steel jackets in this gun except to experiment with it. I have bought steel jacket ammunition from the Winchester Arms Company at different times.

Q. Then, to the best of your recollection, there could not have been more than twenty or thirty rounds of ammunition in the box, if there were any?—A. Not over twenty or forty, if any.

Post Q. M. Sergt. EBER I. SHARP, U. S. Army.

I served in Company K, Twenty-sixth Infantry, and was made battalion sergeant-major in March, 1903. I served with Company K at Fort Brown, Tex., when I was battalion sergeant-major and later on post quartermaster-sergeant. When I was first sergeant of K Company I kept all the records and wrote the returns, etc. The quartermaster-sergeant was always in immediate charge of the property. Sergeant Shrewsbury was quartermaster-sergeant when I left

the company. He told me one day shortly before he died that he was ahead some rifles; I don't think he stated the number. I want to change that; I don't want to make such a positive statement as that he was actually ahead, but from what he did say I inferred that he was ahead. I asked him for a certain rifle one day for my own use, and he gave it to me, and remarked that I might keep it, or something to that effect. It was a gun that was fixed up for orderly work and I wanted it because it was easier kept. Now, I kept that gun in my possession or with my effects—not always directly with me—until on or about the 1st of January, 1904. I turned it in at that time to the quartermaster-sergeant of K Company, who, I think, was Sergeant Short, or it might have been Sergeant Cheeseman. The noncommissioned officers of the company knew that I had this rifle, because I was asked about it once or twice. That is the extent of my knowledge or understanding of any surplus rifles in that company. I can not think who was quartermaster-sergeant at that time, at the time I turned it in, but I know that Sergeant Blind—Arthur Blind—was first sergeant. I don't think I can remember of any remarks of that nature—referring to surplus guns in K Company—except what Sergeant Shrewsbury said. I don't think I have ever heard anything of that kind except what I have read in the papers after the Brownsville affair. I have spoken with several parties, discussed the proposition of what was going on down there, and I have expressed it as my belief that there were surplus guns in K Company. That belief was established on what Sergeant Shrewsbury told me. There were no guns lost in my company by the wrecking of a boat over in the Philippines. We did lose some guns under another circumstance. That was in October, 1901. My company was ordered from southern Luzon to the island of Samar, and all surplus accouterments and ordnance was packed and stored, I think, by the quartermaster in Nueva Caceres. We had no occasion to have these with us again until after July 1, 1902, and then we were stationed at Baler, province of Principe. Our stuff that was stored in Nueva Caceres was then shipped by boat to us at Baler. And in checking up the property there was one chest or one box containing six rifles, more or less—I don't know just what the number was—was found to be short, found missing. That was covered by a survey report, probably about September, 1902. Capt. D. W. Kilburn, Twenty-sixth Infantry, was responsible for the property. I think that was all the rifles we ever lost while we were in the Division of the Philippines while I was with the company. I think Corporal Ryan in his testimony was referring to the rifle which I turned in, and, if I am not mistaken, I turned it in before he joined the company. I swear I have not in my possession a Government rifle which was formerly on the accountability of K Company, but which is now surplus. I have not had any since January 1, 1904, except one issued to me for target practice and for the division rifle competition of 1904, which I think came from K Company, as I was attached to that company for target practice. I turned that in to the quartermaster-sergeant of the company when I got back from the competition. I don't recollect just who it was, but it must have been Sergeant Short. I don't know where Sergeant Short is now; I don't know whether he is yet in the service or not. I don't know

anything about Sergeant Cheeseman, except that I understood that he was discharged by purchase, I believe. I don't know where he could be addressed. Sergeant Snyder's post-office address is Rural Route No. 1, Winlock, Clark County, Wash.

This rifle I got from Sergeant Shrewsbury was not marked in any way, except that the stock had been shellacked. I never heard, to the best of my recollection, any remarks or rumors or talk in the company about any surplus rifles except what Sergeant Shrewsbury told me. I used to get ammunition from that company to practice with, and I think I used more than my allowance that year. I did not hear at Brownsville or any other place anything about the sale of surplus ammunition. The last I heard of Sergeant Blind was, indirectly, that he was in the street car service at San Antonio. He relieved me as first sergeant of that company, K Company. I want to change my testimony about this. Blind relieved me as first sergeant, but he was discharged the latter part of November or the first of December, 1903, and Rose was made first sergeant, and he was the first sergeant when I turned in the rifle. He is now in the street car service at San Antonio, while the last I heard of Blind he was running a saloon in Matamoros, Mexico. I never heard of any surplus rifle being in the possession of Captain Kilburn, but I know he kept a rifle at his quarters all during the target season. I know nothing of any surplus rifle being turned over to Lieutenant Schmidt. He was in command of the company, and I think he was accountable and responsible for the ordnance in December, 1903, and January, 1904, about the time when I turned in the rifle. I never heard any talk that he had a surplus rifle in his possession, a rifle that was not on the papers. I was post quartermaster-sergeant at Fort Brown when Ryan, of K Company, was on extra duty as laborer in the quartermaster's department. He was relieved because it was believed he was carrying public property into town and selling it. Lieutenant Leckie preferred information against him before the United States commissioner, Creager, but the evidence was not enough to bring him to trial. His reputation always was that he was big-mouthed—that is, he was always talking and making a big story out of a small article.

Capt. CHARLES F. BATES, Twenty-fifth Infantry.

Several weeks ago, it might possibly be two months, I was in the quartermaster storehouse and there was an exchange of a sentence or two between Sergeant Sharp and myself in regard to the Brownsville matter. The gist of it was in reference to the possibility of there having been some modern high-power guns in the possession of people of Brownsville at the time of the Brownsville affray. To the best of my recollection, Sergeant Sharp stated that he knew that eight Government rifles had been disposed of in that vicinity. I don't desire to say from my recollection that the sergeant meant that he could prove that or that he himself personally saw the rifles disposed of, but I gathered a distinct impression that he had heard about it in some way. I didn't take particular notice of it at the time, because I thought it might be a mere hearsay report. I understood from this conversation that these eight rifles were surplus rifles belonging to some one of the companies of the Twenty-sixth Infantry, but not actually carried on their returns. The sergeant did not say

anything about the manner in which these rifles had been made surplus. He did not tell me what company they came from.

Post Q. M. EBER I. SHARP—Recalled.

I am sure I did not state definitely 8 rifles, I may have said 6 or 8. I was always under the impression that there were surplus rifles in K Company. Of course, this impression was merely a satisfaction of my own, it was not substantiated by anything. A man went from here to San Antonio in charge of prisoners or recruits or somebody, about the time Major Penrose's trial was going on, and he told me that there was talk to that effect; that is, there were surplus rifles and they had been disposed of. And I mistrusted at the time he was telling of it that there was surplus rifles in K Company, because I was satisfied that they had surplus rifles. I have always had the satisfaction in my own mind that a part or all of those rifles that were lost at Nueva Caceres might have been subsequently found after the company went back to Nueva Caceres, and if they were, it would leave from 6 to 8 surplus rifles to be taken up as found. Whether they did that or not I don't know. When the exchange of the new rifles for the old ones took place in 1906, the old rifles, if they had been found and taken up, would have been turned in; otherwise they would have been remaining with the company and wouldn't be considered as part of the equipment any more, and therefore would be available for other disposition. Now, that's the way that I arrived at my belief that there were surplus rifles in the company. And they might easily have found their way into the hands of citizens. I was satisfied also that there were surplus rifles in K Company because Sergeant Shrewsbury told me so, or gave me to understand that there was. I don't think I had any other reason for thinking there were surplus rifles in K Company, unless it was this talk about the Brownsville affair that confirmed my belief. Brownsville was the first station that K Company occupied after returning from the Philippines, and was there until the old rifle was displaced by the new one. And there was no demand or call for rifles before they got here. This is one of the reasons why I concluded they had been old there. The people living in and around Brownsville have a good many rifles, high-power rifles, such as Winchesters, and so forth, in their possession, showing that they use them or have occasion to use them. I think I have seen a Government rifle in the possession of a person outside the post at Brownsville. I couldn't describe any specific place or party, but soldiers quite often went hunting with civilians and furnished them rifles, at least I have known it to be so. I can state one instance, but I can not tell the time. There was a colored man residing just outside the post. His name was Mack Hamilton, or he was called Mack Hamilton. I saw him going down the road behind the barracks with a rifle on his shoulder, and although I could not swear it was a Government weapon, I believed it to be so. I didn't think at that time that there was any cause for suspicion that he had no right to have it, because he worked in the post for Captain Baldwin. He was outside the post and he was going towards his house. He lived outside the post. I did not hear anything while I was there that led me to form a conclusion that rifles were being sold in town.

Capt. CHARLES F. BATES—Recalled.

Now that the sergeant (Sergeant Sharp) has spoken of K Company, I think I recollect that he mentioned it at the time he spoke of the rifles. To the best of my recollection the sergeant did mention 8 rifles; he might possibly have said at least 8 rifles. but I am sure he used the number 8.

First Lieut. ALLEN PARKER, Twenty-sixth Infantry.

Q. Please state your name, rank, and residence.—A. Allen Parker, first lieutenant, Twenty-sixth Infantry; Jefferson Barracks, Mo.

Q. Were you stationed at Fort Brown, Tex., during 1906?—A. Yes, sir.

Q. With what company were you there?—A. Company K, Twenty-sixth Infantry.

Q. Did you have command of the company at any time?—A. I did.

Q. From what time to what time, approximately?—A. I arrived at Fort Brown September 10, 1904, and joined my company. The company was then commanded by Capt. D. W. Kilburn, Twenty-sixth Infantry. Captain Kilburn was granted a leave of absence December 5, 1904, and returned to duty on or about May 5, 1905. During the latter part of May, 1906, Captain Kilburn was ordered to Fort Sam Houston, Tex., headquarters Twenty-sixth Infantry, for the purpose of being made regimental quartermaster. During his absence I was in command of the company. On May 30, 1906, Second Lieutenant Dunford, Twenty-sixth Infantry, on duty with the company, left Fort Brown with the company and marched to Point Isabel, Tex., to the target range, about 22 miles below Fort Brown. June 1 I went to Point Isabel by rail and assumed command of the company. I retained command of the company until about the 1st of September, 1906.

Q. During the time last year you were in command of the company were you accountable for the company property?—A. I was not.

Q. Did you make any inventory of the company property?—A. I did not, except the quartermaster property.

Q. In whose name was the property accountability?—A. The quartermaster, Fort Brown, was accountable for the quartermaster property and Capt. D. W. Kilburn, Twenty-sixth Infantry, accountable for the ordnance property.

Q. Did you at any time hear any report or rumor or talk of any kind that there were surplus rifles in K Company, or any other company? By surplus I mean rifles that were not down on the ordnance property returns.—A. No, sir; I did not.

Q. It has been testified to that there were at least six surplus rifles in K Company and that the numbers on these rifles were marked out. Do you know anything about these rifles or about their being altered in any way?—A. I do not.

Q. You never heard anything of such an affair?—A. I did not.

Q. You know nothing, then, by hearsay or by rumor, that there were surplus rifles in any of the companies at Fort Brown?—A. Not while I was on duty with the regiment. All rumor to that effect is

hat I have read in the daily papers since I left the regiment, in September, 1906, or is based on clippings from the daily papers.

Q. It was testified that while the company was at Point Isabell, on the target range, you sent a written order to Corporal Means to turn over 200 rounds of ammunition to Mr. Creager, the United States Commissioner at Brownsville. What have you to say in regard to this?—A. That is correct, sir. Mr. Creager has a cottage at the Point and was down there at the time with his family. He would go back to his business in Brownsville when necessary, returning, then through, to his family at the Point. Mr. Creager possessed a high-power rifle—I am not positive, but I think a Winchester, .30 caliber. I saw the rifle and passed some comment on it. Mr. Creager informed me that he had no ammunition. I told Mr. Creager that I would give Corporal Means, who was then in charge of quarters at Fort Brown, a note for Corporal Means to turn over to him, Mr. Creager, 200 rounds of Krag-Jørgensen ammunition and he could bring it down with him the next time he came. The ammunition was turned over to Mr. Creager and he brought it to Point Isabell, where later Mr. Creager, Mr. Brulé, Corporal Wesner, Lieutenant Dunford, possibly one or two other men in the company—I am not sure at this time—and myself fired this ammunition from Mr. Creager's rifle at the target range. Mr. Kennedy also fired the rifle.

Q. Was this surplus ammunition?—A. As to that I can not say, sir; as I had not taken an inventory of the ordnance property.

Q. Did you ever hear that there was surplus ammunition in the company?—A. The year before the battalion conducted its target practice at Fort Ringgold. There was, I think, at the beginning of that practice some surplus ammunition; yet I can not state just positively; but I state this because I am inclined to believe we fired more than our authorized allowance while at that range. Just now the ammunition stood at the end of the season and since then I do not know.

Q. What do you know of your own personal knowledge or by hearsay, report, or in any other manner, concerning the sale of surplus ammunition at Fort Brown?—A. I know nothing myself, and only what I read in the papers concerning it.

Q. Did you at any time give orders to or authorize the company quartermaster-sergeant or artificer to sell Krag ammunition for the benefit of the company fund?—A. No, sir; I never did.

Q. After the Krag rifles were turned in was any authorization given by anybody at Fort Brown for sale of Krag ammunition that was on hand, the money to be turned into the company fund or company mess?—A. I never heard of it, if it was, sir.

Q. If such authorization had been given by the post commander, you would probably have heard of it, would you not?—A. I probably would, as I had command of the company from June 1 until about September 1.

Q. It came out in this investigation that the Krag ammunition was sold to civilians, the noncommissioned officer making the sale stating that he was authorized to do so; that this ammunition belonged to rifles which had been turned in and that they did not want

to carry it away with them from Fort Brown. What can you say about this?—A. That is the first I have ever heard of it.

Q. Were you on duty with the Twenty-sixth Infantry in the Philippines?—A. Yes, sir.

Q. With what battalion were you then?—A. I was with the Third Battalion.

Q. Were you on duty with the Third Battalion at the time it was ordered to the island of Samar?—A. Yes, sir.

Q. Do you recall the wrecking of a boat containing property belonging to that battalion about this time?—A. Yes, sir.

Q. Were there any rifles lost by this wreck that you know of?—A. I can not state positively that there were; I have heard that there were rifles lost.

Q. Have you ever heard that these rifles, or any of them, were subsequently recovered?—A. I have heard it mentioned at different times, more in a joking way than otherwise.

Q. State some of the things that you heard in this connection.—A. I have heard that several rifles belonging to M Company, Twenty-sixth Infantry, were lost in the Bicol River at Nueva Caceres, P. I. when a catamaran containing a number of men of that company struck a sunken pier and was capsized. I have heard that the company losing them did not make much of an effort to recover them, as they thought they would get new ones to replace them. I have heard that quartermaster-sergeants of other companies did recover some of them, but I can't say positively that this is so; I do not know it to be so.

Q. Then, these guns recovered by quartermaster-sergeants would probably be surplus in other companies?—A. If they recovered them they would apparently be surplus, if they had all the guns they were accountable for at that time.

Q. Did you ever see around your company any guns that were surplus?—A. I do not remember of having ever seen any surplus guns around my company.

Q. Or hear of any that were surplus?—A. I do not remember of having heard of any surplus guns in the company.

Q. How about any of the other companies? Did you ever see any surplus guns around them or hear of any surplus guns around them other than you have just testified to about the quartermaster-sergeant having surplus guns?—A. That is the only way in which I ever heard of any surplus guns around the companies.

Q. Do you know where Sergeant Cheesman is now?—A. No, sir; he was discharged at Camp Mabry.

Q. Do you know where a letter could be sent to him?—A. If I am not mistaken, Sergeant Cheesman told me that his home is in St. Charles, St. Charles Parish, La. He also stated that he was going home, and that he was not going to reenlist. It may be that a letter addressed to him there would reach him.

Q. What is Corporal Ryan's reputation for truth and honesty?—A. Corporal Ryan has a reputation in the company of being what the men would call "windy," and it was a matter of comment that he was always talking. I can not recall any instance of his having been found not telling the truth. I remember hearing some talk among the officers at headquarters that it was suspected that he was

ishonest while on duty in either the quartermaster department or commissary department, I can not recall which.

Q. Is there any further information that you can give that will assist in this investigation, either through rumor, hearsay, or from your own knowledge?—**A.** There is not. June 1 I assumed command of the company at Point Isabell, and as Captain Kilburn was ordered to San Antonio at this same time there was no time to transfer the ordnance property. The company returned to Fort Brown June 30, and on or about July 5 the battalion left for Fort Sam Houston. About July 15 the regiment left for Camp Mabry, near Austin, Tex. The ordnance not required for use by the company was left stored at Fort Sam Houston. This ordnance was boxed at Fort Brown for shipment to Fort Sam Houston while I was with the company at Point Isabell, and so far as I know it had not been unpacked when I was relieved from command of the company in order to proceed to Jefferson Barracks, Mo., for duty. I was relieved from command of Company, Twenty-sixth Infantry, by Lieutenant Richardson, Twenty-sixth Infantry, but there was no transfer of ordnance property, as Captain Kilburn was still accountable for the same.

HEADQUARTERS SOUTHWESTERN DIVISION,
INSPECTOR-GENERAL'S OFFICE,
St. Louis, Mo., June 3, 1907.

The ADJUTANT-GENERAL, SOUTHWESTERN DIVISION,
St. Louis, Mo.

SIR: In connection with my report of the 21st ultimo, covering an investigation of the alleged sale of surplus arms and ammunition at Fort Brown, Tex., I have the honor to forward herewith an affidavit of Q. M. Sergt. Jerry S. Riley, Company C, Twenty-second Infantry, which corroborates the testimony already secured as to the six surplus guns.

I have written to the postmasters at two places in Louisiana for information concerning Joseph Cheesman, formerly quartermaster-sergeant of Company C, Twenty-sixth Infantry, but both replied that they knew nothing of him. No reply has been received to my letter of May 22, 1907, to Harry C. Snider, the quartermaster-sergeant of Company C, referred to in inclosed affidavit.

Very respectfully,

F. H. FRENCH,
Lieutenant-Colonel, Inspector-General.

[First indorsement.]

HEADQUARTERS SOUTHWESTERN DIVISION,
St. Louis, Mo., June 4, 1907.

Respectfully forwarded to The Adjutant-General of the Army, Washington, D. C., in connection with the report forwarded on May 21, 1907.

W. P. BURNHAM,
Major, General Staff, Acting Chief of Staff.
(In absence of division commander.)

Report of May 21 left with Chief of Staff May 26 by General Ainsworth.

Personally appeared before me, the undersigned, one Jerry S. Riley, quartermaster-sergeant, Company C, Twenty-second Infantry, who, upon being duly sworn, deposes and says:

That he was in Company K, Twenty-sixth Infantry, from about October 16, 1903, to November 10, 1905, when he was discharged. That dates are from memory.

That he served as quartermaster-sergeant from about December 16, 1903, to September 22, 1904; that he never served in the Philippine Islands at any time, and that he joined the Twenty-sixth Infantry at Brownsville, Tex., about October 16, 1903, relieving Company Quartermaster-Sergeant Snider as quartermaster-sergeant, December 16, 1903.

That he was relieved as quartermaster-sergeant about September 22, 1904, by Company Quartermaster-Sergeant Snider.

That when he took over the property at Brownsville, Tex., there were on hand five or possibly six Krag rifles, which he believes were surplus and not carried on regular returns. That all these rifles were turned over by Sergeant Riley to Company Quartermaster-Sergeant Snider when he was relieved as quartermaster-sergeant.

That he has no personal knowledge as to how the surplus rifles were accumulated. That he was told by Company Quartermaster-Sergeant Snider and also the company artificer, Onan, that they had been picked up over in the Philippine Islands from insurgents, and that two of them had been picked up in a creek where they had been concealed by Filipinos. That he has no further information as to how they became surplus.

That about January or February, 1904, he heard that the former first sergeant, whose name he can not recall, and who had been discharged about a week, had a Krag rifle down in Brownsville at his boarding house, and that he went down and secured the rifle and brought it back to the company. The discharged first sergeant claimed the rifle was his, that it had been given to him by Company Quartermaster-Sergeant Snider, but gave it up without protest when called upon to do so.

That, so far as he knows and believes, there were no other rifles taken away from the company.

That outside of above information he has no knowledge of how the rifles were made surplus, but that some of the following-named persons might give some information in regard thereto: Captain Kilburn, Twenty-sixth U. S. Infantry, Company Quartermaster-Sergeant Snider, and Artificer Onan, then in Company K, Twenty-sixth Infantry.

That as a matter of fact he knows nothing about the rifles except as above, from what he heard in the company. That the rifles were received by him and when he was relieved as quartermaster-sergeant they were turned over by him to Quartermaster-Sergeant Snider, succeeding him, and very little attention was paid to the matter.

Further deponent saith not.

J. S. RILEY,

Quartermaster-Sergeant, Company C, Twenty-second Infantry.

Sworn to and subscribed before me this 28th day of May, 1907, at
San Francisco, Cal.

G. W. McIVER,

Major, Twentieth Infantry, Summary Court.

At 2 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The committee reconvened, pursuant to the taking of the recess, at o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, and Overman.

The CHAIRMAN. We have received the following telegram from one of the witnesses subpoenaed to appear before us:

[Telegram.]

BROWNSVILLE, TEX., June 11, 1907.

FRANCIS E. WARREN, *Chairman.*

United States Senate, Washington, D. C.:

Wife sick in bed. Impossible to leave. Will wire certificate of doctor if necessary.

L. A. JAGOU.

TESTIMONY OF MAJ. CHARLES W. PENROSE, U. S. ARMY—Continued.

By Senator HEMENWAY:

Q. Major, what is the usual course of procedure in case of disturbance of this kind in the Army?—A. As thorough an investigation as it is possible to make.

Q. By whom is it made?—A. That is made by the post commander.

Q. Then after his investigation is concluded, what is the next step?—A. If, during this investigation, enough evidence is adduced to reasonably suppose that anybody may be guilty, it is customary to confine the accused person and prefer charges against him.

Q. What was the result of your investigation?—A. I could not find that my men had anything whatever to do with the trouble in Brownsville.

Q. What charges, if any, were filed against any of the men of your battalion?—A. Of my own knowledge, I am not certain, sir. They were taken to Fort Sam Houston, Tex., confined there, and charges, I believe, preferred against them, under the sixty-second article of war.

Q. What officer, other than yourself as commanding officer of the battalion, had authority to prefer charges?—A. Any officer can prefer charges, sir.

Q. By whom were the charges preferred?—A. I do not know, sir.

Q. It is a matter of record that charges were preferred?—A. Yes, sir; I think they were.

Senator FORAKER. Here is a record of the charges (handing volume to Senator Hemenway).

By Senator HEMENWAY:

Q. These charges were preferred, as this record shows, by H. Clay M. Supplee.—A. Supplee, yes, sir. He is battalion adjutant of the Twenty-sixth Infantry, I think.

Q. After charges have been preferred, what is the next step?—A. They are referred to the post commander and the post commander makes an investigation, and if in his opinion the charges can be sus-

tained he so indorses on the back of the charges and they are forwarded to the department commander, who, if he considers the charges are valid, orders a general court-martial for the trial of the person accused.

Q. Were these charges referred to you as post commander?—A. No, sir.

Q. To whom were they referred?—A. They must have been referred to the post commander at Fort Sam Houston.

Q. Who was post commander at that time at Fort Sam Houston?—A. I think Maj. C. J. T. Clarke, of the Twenty-sixth Infantry, was in command at that time. The permanent commander was Col. George Le Roy Brown, of the Twenty-sixth Infantry, but I am under the impression that he was away.

Q. Under the rules governing the Army, was it not the duty to refer them to you?—A. No, sir; not to me.

Q. Do you know what disposition the post commander made of the charges when they were referred to him?—A. My recollection is that in conversation with Major Clarke some time afterwards he told me that he found that the charges could not be sustained, and so indorsed on the back of them that in his opinion the charges could not be sustained.

Q. Then what followed?—A. They should have been referred to the department commander; and from the post commander's indorsement I suppose he took no further action in the matter. I do not know now, sir, whether they were referred to a court or not.

Q. I find here the report of Clarke, commander. It says:

Respectfully forwarded to the military secretary, Department of Texas, recommending trial by court-martial under paragraph 962, Army Regulations. These charges have been investigated by the undersigned as far as practicable with the means at hand, and I am of the opinion that it is doubtful if the allegations as set forth can be substantiated.

By Senator HEMENWAY:

Q. You say you do not know whether there was ever a trial by court-martial or not?—A. I think not, sir. I do not know, though positively. I am pretty sure they were not brought to trial by a court-martial, but I was not stationed at Fort Sam Houston, so that I do not know, sir.

Q. In view of your recommendation, and in view of your opinion at the time, why was there not a court-martial and why were not these soldiers tried in the regular and ordinary way?—A. I think because they could not get the necessary evidence to sustain the allegations.

Q. What is your rule in conducting courts-martial? Are they conducted along the line of ordinary criminal cases?—A. Yes, sir.

Q. Where the prosecution must make its case?—A. Must make its case; yes, sir. The prosecution first makes its case, and then it is followed by the defense.

Q. What reason, if any, is there why these soldiers should not have been tried in the ordinary and regular way?—A. That there was not sufficient evidence against them to warrant their trial.

Q. Well, do I understand that this action has been taken without any evidence being adduced that would warrant the War Department in trying these soldiers?—A. Will you please repeat that question?

Q. I say, are we to understand that this action has been taken without any evidence being adduced that would warrant the War Department in trying these soldiers in the ordinary way?—A. Yes, sir; I think—

Senator TALIAFERRO. You are asking him to answer a question, Senator, that may involve some criticism of the Department.

The WITNESS. I do not want to be put in the light of criticising the Department, and I hope that you will strike this out. The men were not tried, sir.

By Senator HEMENWAY:

Q. I do not want to ask you any question that you do not want to answer. You were asked this morning about your own theories. I do not know that they have any particular bearing upon this case, as you are not the trial court, but the examination was pursued with a great deal of vigor, as if your opinions were material, and I am going to ask you a few questions along that line. The gentleman who lost his life—his name I can not now remember.—A. Natus.

Q. Natus. He was a saloonkeeper and gambler?—A. I have so understood.

Q. In how many different places in Brownsville did they conduct gambling houses and saloons?—A. I do not know, sir.

Q. Do you know anything about any rivalry existing between the various keepers of saloons and gambling houses in that city?—A. No, sir; I do not know of any rivalry. I presume there was the usual rivalry that usually exists with those people, but I do not know.

Q. Do you know whether or not they conducted their business of gambling and selling liquors on Sunday?—A. No, sir; I do not.

Q. Do you know whether they conducted the business of gambling at nights in these various places?—A. I do not, sir.

Q. Do you know Captain Kelly?—A. Capt. William Kelly?

Q. Yes.—A. Yes, sir.

Q. You heard his statement, or heard of his statement before this committee, that he would be as quick to believe the colored soldiers as he would the Mexican residents, barring a few of the leading families, did you, and that he would not care to believe either?—A. Yes, sir; I have heard that he made such a statement.

Q. How many men in your battalion had been under fire, either in battles or in skirmishes?—A. Well, I do not know that I could answer that positively at all, Senator, but as a rough estimate I should think that there probably were 30 per cent of them, maybe 40 per cent of them.

Q. From your knowledge of these men, their bravery in battle, following the flag of their country, and their general behavior, would you believe them on oath?—A. I would, sir.

Q. You think their evidence should be given the same weight as that of any other American citizen?—A. I do, sir.

Q. You think it equally as good as the testimony of the Mexican residents of Brownsville?—A. Yes, sir; I do.

Senator HEMENWAY. I do not believe I have any further questions.

By Senator TALIAFERRO:

Q. How long were you at Brownsville, Major?—A. We arrived on the 28th of July and we left the 26th of August, I think it was; the morning of the 26th of August.

Q. About a month?—A. Yes, sir.

Q. Did you know the people of Brownsville pretty well?—A. No, sir; there were very few indeed that I had met; very few.

Q. Did you know Mr. Rendall?—A. No, sir; I had never seen the man, that I know of, until after the 13th of August. I think I only saw him once then, when I went to the telegraph office myself to send a telegram. Am I right as to Mr. Rendall being the operator?

Q. No; the operator was Sanborn.—A. No, sir; I do not think I ever saw Mr. Rendall until he testified before my court.

Q. You do not know his reputation in Brownsville?—A. No, sir; I do not know him at all.

Q. I understood you to say, Major, that the people of Brownsville did this shooting?—A. Yes, sir.

Q. I understood you also to say that you knew of no motive?—A. Yes, sir; that is right.

Q. And that there was no evidence—A. Yes, sir.

Q. That they had done it?—A. None that I know of at all, sir.

Q. Do you not think it a serious charge to make against the people of a community?—A. I do, sir.

Q. Without evidence, without motive or the appearance of motive that they had shot up a town as Brownsville was shot up that night?—A. Yes, sir. I was forced into it. I did not like to say anything of the kind, Senator. I should have liked to have avoided it; but I do not believe my own men did it, and as long as I felt that way I did not see who else could have done it except the people of Brownsville. I am very sorry to have to make such an admission.

Q. There is no evidence that they did it?—A. None that I know of.

Q. I say none that you know of?—A. Yes, sir; not that I know of.

Q. There is some evidence that your men did it?—A. I believe it is so testified—before my court. I know it has been, before my court and here.

Q. There has been evidence given that your men did it, outside of this evidence that your men were recognized?—A. No, sir.

Q. The finding of the shells and other circumstances of that kind?—A. Yes, sir.

Q. Circumstantial evidence that your men did it?—A. Yes, sir.

Q. And with that evidence in existence, and no proof that the people of Brownsville did it, and no motive for the people of Brownsville to do it, as far as you know, you still adhere to the statement that in your judgment the people of Brownsville did that shooting?—A. That is the only conclusion that I can come to, sir.

Q. And you reach that conclusion only because you can not locate or identify the parties that did the shooting?—A. That, and that I do not believe my men did it. I have taken it into consideration. I have tried to tell the committee of everything that has led me to this conclusion. I have tried to do that in my answer to Senator Pettus.

Q. Now, I do not want to be understood as criticising you, Major, for changing your views about this case.—A. Yes, sir.

Q. But it seems to be a fact that you did not change your views until you became one of the accused?—A. I was never accused of the thing, sir.

Q. Were you not court-martialed?—A. I was court-martialed, but not for the shooting up of Brownsville.

Q. Were you not court-martialed for a want of discipline which, if it had existed, would have prevented this shooting up of Brownsville?—A. That was the basis of the charges, of which I was acquitted.

Q. That was the basis. I say, then, that made you practically one of the accused.—A. I can not see it in that light, sir.

Q. If you had been convicted of those charges, you would have been as responsible for that shooting, if your men did it, as the men themselves.—A. I do not think so, sir.

Q. If your want of discipline had made it possible for that to be done, you think you would not have been responsible?—A. I do not see how I could have been held personally responsible. If they had found that there was lack of discipline, I would, of course, have been punished for this lack of discipline; but as far as having any participation in the shooting up of Brownsville is concerned, I do not see how I could have been held responsible personally for that.

Q. You understand, Major, that I did not mean anything of that kind?—A. I hope not, sir.

Q. That you were out there with a gun shooting up the town.—A. No, sir.

Q. I simply want to call attention to the fact that under the testimony you did not change your view that your men did this shooting until you were court-martialed, until the beginning or during the progress of, or at the conclusion of, your court-martial proceedings?—A. That is right, sir.

Q. And I want to ask you in all fairness whether or not you were influenced by that court-martial proceeding to look for some escape for your men?—A. No, sir; I do not know that I was, for any escape for my men. I can not put it that way.

Q. We will change that word.—A. What influenced me was the testimony that I listened to there, which was adduced by the prosecution on my court-martial.

Q. The testimony?—A. The testimony; yes, sir; that and the testimony that has been brought out here.

Q. Was there any testimony, any definite testimony, before the court-martial, showing that your men did not do this shooting?—A. No, sir.

Q. Has there been any definite testimony before this committee showing that your men did not do this shooting, except the denial of such of your men as have been examined?—A. Not that I am aware of, sir. Not that I have seen, and I have followed it pretty closely.

Q. What testimony do you refer to?—A. I mean the testimony given by the people of Brownsville as to what they could see that night. They have testified they could see and distinguish negro soldiers at certain distances that I am positive in my own mind that they could not see.

Q. Why did you reach this conclusion? The statements were all before you when you reached the conclusion that these men did this shooting?—A. No, sir; they were not all before me. It was in a very vague way that I received it. Very little.

Q. Had you not been told by Mayor Combe that your men had been seen on the streets doing the shooting that night?—A. That was an ex parte statement. They had not been submitted to cross-examination or anything of the kind at that particular time.

Q. I am not dwelling on the accuracy or inaccuracy of that statement or testimony. I am dealing with the testimony.—A. That is what I want to do, sir.

Q. I want to try to bring out, if I can, whether or not those facts were before you when you reported in your judgment your men did that shooting?—A. The only facts before me at the time I made that report were from the report of Mayor Combe, when he came in to see me early on the morning of the 14th, at 1 or half past 1 in the morning, in the day, when the citizens' committee came in to see me. They then told me that my men had been seen in the streets doing the shooting. That was the testimony I had before me at that time. That was the statement, rather, that I had before me at that time.

Q. And you concluded afterwards that those statements were inaccurate, because you recalled that that night it was so dark that you could not recognize one of your officers within 10 feet of you?—A. That was it, sir.

Q. Did you not know when Mayor Combe made that statement to you that it was as dark as you afterwards recalled it was?—A. Yes, sir; I did; but I did not know under what circumstances these people who reported to Mayor Combe had seen these men at all. He simply made the blind statement in the matter that five men had been seen in one party and three in another. He did not tell me the circumstances under which they were seen at all.

By Senator LODGE:

Q. Did you see the testimony taken before the citizens' committee before the court-martial?—A. You refer to the citizens' committee!

Q. Yes.—A. Yes, sir; I had all of that.

By Senator OVERMAN:

Q. Before you made your report you had that?—A. No. You mean that first report I made, of the 15th?

Q. Yes.—A. No; I do not think I had that—I did not have all of it until about the time of my court-martial.

By Senator TALIAFERRO:

Q. When was it that you first recalled that this was such an unusually dark night?—A. That very night, sir.

Q. What?—A. There never was any question in my own mind about this being an unusually dark night. It was apparent when I first stepped out of the house that night.

Q. When was it that you first felt that the statement that your men had been seen on the streets doing this shooting was inaccurate because of the darkness of the night?—A. Well, that was during my trial, in the presentation of the prosecution, when the witnesses testified that they saw these men at various distances.

Q. Now, tell us, Major, why that did not occur to you when you made your report?—A. Simply because I knew nothing, as I have stated before, about the conditions under which these men were seen. I did not know but what there were lights; I did not know but what they saw them in lights that would be brilliant enough for them to

easily distinguish them. I did not know anything about it at that time.

Q. Do you know anything about it now? I beg your pardon, finish your answer.—A. Nothing but what I have been told, and what has been brought out in testimony, as to where lights were in that part of town.

Q. It has been brought out that there were several lights in the Cowen house, I think.—A. Yes, sir. There was a light in the Cowen house, and I think that the testimony showed that the first shot or shots put that light out.

Q. The first shots?—A. I think that was it.

Senator LODGE. Put out one light.

By Senator TALIAFERRO:

Q. Do you mean the first shots?—A. Was there more than one light? I meant the first shots into the house, of course. I did not mean the first shots down below.

Q. You did not mean that?—A. No, sir. Of course I do not mean the first shots that I heard, which I thought were in rear of B or C Company's barracks; but I presume that they were shots that occurred afterwards. If they were down by the Cowen house they must have been.

Q. Approximately, about what was the length of that beat of that sentinel who marched around the occupied barracks?—A. Well, I should think that must have been 300 yards. Three hundred yards, I should think, from the eastern end of C Company barracks to the western end of B Company barracks. That is an estimate only, sir.

Q. Was he required to keep moving on his beat all the time?—A. Yes, sir.

Q. And you think the first firing was on the garrison road, about the mouth of the alley?—A. The first shots that I heard seemed to me to be off in the direction of what is marked there as the commissary-sergeant's quarters. That is a little row of houses in there. I heard two distinct shots, and it struck me they were in that direction. Immediately afterwards there were six or eight shots fired very rapidly, and then three distinct shots that seemed to be right over by B or C Company barracks. Then there were a whole lot of scattering shots. Some of them sounded like they might have been attempts at volleys, and scattering shots in between. I could not pretend to say how many.

By Senator OVERMAN:

Q. I understand that you were convinced that your men did this shooting first on circumstantial evidence?—A. Yes, sir.

Q. Then when you had the positive evidence of fifteen or twenty people that saw them, that changed your mind?—A. Yes, sir.

By Senator TALIAFERRO:

Q. Now, Major, you say this sentinel was required to keep up his march right around those barracks?—A. Yes, sir; that is the instruction of the sentinel always.

Q. And the point in the barracks opposite the mouth of the alley was about midway of his beat? I understood you to say that the center of B barracks was about opposite the mouth of the alley.—

A. Yes, sir; the center of B barracks. You see, he came around in front as well. He marched right around the barracks.

Q. Yes. So that that sentinel could not have been, at the outside, over 150 or 175 yards from the mouth of the alley?—A. Yes, sir; that would be about it.

Q. And how far were the men in the mouth of the alley from B barracks?—A. I think it is about 50 or 60 feet from the wall to B Company barracks.

Q. I want to submit, Major, if it is not an extraordinary thing that that firing could have been done on the garrison road, with your sentinel marching around those barracks, and with B Company barracks fully occupied, without some of the men being able to give you some idea of who did it.—A. Well—

Q. I want to ask you if that is not really a suspicious circumstance?—A. If I had thought that night that the men did it, I should certainly think so. I did think so at first. A party could have crept up and shot from that wall without anybody ever being any the wiser for it or knowing it.

Q. But there is no evidence whatever that any shot was fired towards the barracks that I know of.—A. I admit that, sir; I have admitted that right along.

Q. So that that would seem to do away with the contingency of the men slipping up to the wall and firing over into the barracks into the grounds?—A. Well, that is possibly so, but I believe that it was.

Q. If we concede for the moment that your men had nothing whatever to do with this firing, that not one of them was connected with the firing, is it not to your mind a suspicious circumstance that that sentinel and no man in B barracks should have any explanation to offer of the firing that occurred so near the barracks as you think this firing did?—A. No; there were some of the men. if I recall it correctly, who stated that they did see shots; they saw flashes outside of that fence.

Q. Some of your men?—A. Yes, sir.

Q. Did they make any statement of that kind to you?—A. Yes, sir; I think some of them made it to me. They made it in their affidavits that have been produced that they saw shots outside of the fence. I can not recall now who they were, but I can look the matter up and tell you from their affidavits. I think those affidavits are all in evidence here.

Q. If it is in evidence here, there is no need for you to go to any trouble about it.—A. I believe it is.

Q. I did not recollect that any of your men admitted that they knew of any shooting as near the barracks as the mouth of the alley there on the garrison road, except the three shots which were fired by your sentinel.—A. Yes, sir; some of those men have stated that they saw shots outside of the fence. I think there are some men in B Company and some in D Company who testified to that.

Q. There was a witness who testified that he was at his house on Washington or Adams street—Washington, I think, perhaps—when the firing commenced; that he came down Washington street to the garrison road, and down the garrison road to the mouth of the alley.—A. Yes, sir.

Q. And saw some of your soldiers collected in the garrison road opposite the telegraph office, on the corner of Elizabeth street; that

he saw them approach the alley, as he thought, and he backed back a little way from the alley to keep from being seen, and he distinctly saw them turn into the alley. He then ran down and looked up the alley and saw them shooting into the Cowen house.—A. The Cowen house; yes, sir.

By Senator OVERMAN:

Q. Now, in your judgment, would you say that that witness could not have seen that?—A. Yes, sir; I do. I believe he could not have seen it.

Q. One witness testified that he followed some soldiers up the alley up to Thirteenth street, and saw them pass around into Thirteenth street at the corner of the alley, and under that light, and go up Washington street. He was in the alley and put his head out from the alley here [indicating on map]. He was peeping around the corner, and he saw them go around this corner and go up Washington street [indicating].

Senator FORAKER. He saw them turn the other way, Senator. They went right in front of Mr. Porter's house.

Senator OVERMAN. At any rate, he was looking around the corner, at the alley, and he saw them when they went around this way, when they went around by this light, at the corner of Washington street [indicating on map].

Senator BULKELEY. That light is on the sidewalk, you know, and not in the middle of the street, as it is represented on the map.

Senator OVERMAN. Well, wherever it is.

By Senator OVERMAN:

Q. He put his head around this corner and saw some men turn up there. Is that possible?—A. I do not think so, sir.

Q. Under the light?—A. No, sir; that is a very, very small light.

By Senator TALIAFERRO:

Q. There is light enough at the gate, the small gate, I take it, for a man at the mouth of the alley to have seen a body of five or six men collected at that telegraph office, would there not be?—A. I do not know about that, sir.

Q. Without recognizing the men?—A. I do not know whether you could see even with that light there at that distance. I would be inclined to doubt that they could see well enough to know whether they were soldiers or civilians or to know whether they were negroes or white men. I have tried that so often.

Q. I waived that point, Major. I asked you if there would not be light enough for a man at the mouth of that alley to see that there was a body of men congregated at that telegraph office.—A. There might have been. I do not know. With that light there he might have seen them.

Q. Having seen the men there, would he have had any difficulty, in your judgment, in observing that they were coming up the garrison road and going into the alley?—A. I think that he would.

By Senator FORAKER:

Q. Major, if a man located at the corner of the alley and Thirteenth street, to which I am pointing, could look up and see men passing out of Thirteenth and turning into Washington street, a man situated

in the house numbered 10, looking out of the windows into Washington street, would certainly be able also to see them, would he not?—A. Certainly; if he could see them the other way, certainly he could. But I do not believe he could.

Q. But if a man was watching out to see anybody and could not see anybody, it would cause you to doubt whether the other man down here could see anybody?—A. I do not believe he could see that distance.

By Senator BULKELEY:

Q. If the parties living in this telegraph office, Mr. Rendall and his wife and the telegraph operator, all three of whom lived there, were alarmed by the early shooting and were looking out there when this was going on, observing and saw no soldiers and heard no soldiers in the neighborhood or on the sidewalks around, would that not rather discredit the testimony of a man who said he stood 120 feet away and saw them?—A. That is what I am basing my judgment on, sir.

Senator BULKELEY. I believe that is the testimony of Mr. and Mrs. Rendall and Mr. Sanborn, that they saw no soldiers. Mr. Sanborn said he saw one man going into the gate, a soldier, with a gun, and that is all he saw; and Mr. Rendall and his wife, as I understand their testimony, only saw figures inside of the reservation, passing up back of B barracks, and as they thought, as they testified, jumping over the wall, no nearer to them than—

Senator TALIAFERRO. Now, in using that testimony to combat that which I mentioned, do I understand that you admit the testimony of Mr. and Mrs. Rendall and the telegraph operator?

Senator BULKELEY. The testimony is all there, that is all. You were asking about one part of the testimony and I asked about the other.

By Senator FORAKER:

Q. Major, this shooting was done by somebody?—A. It certainly was, sir.

Q. That is the first conclusion. Then, if it was not done by anybody connected with the battalion, it was done by somebody who was not connected with the battalion, was it not?—A. Yes, sir; exactly.

Q. So that if in the way you have described you have reached the conclusion that your men did not do it, it follows, does it not, as a necessary consequence, that somebody outside did do it?—A. Yes, sir; that is it.

Q. And when you say "the citizens of Brownsville," you mean somebody other than your men?—A. Yes, sir; somebody other than my soldiers. Of course it was some one other than the soldiers.

Q. That is, they may have lived in Brownsville or they may have lived in the vicinity of Brownsville, for that matter.—A. Yes, sir; they may have come from Mexico, as far as I know.

Q. You do not pretend to say, except that it was somebody other than your men?—A. Except that I do not believe my men did it.

Q. The chairman wants me to ask you whether you have any individual in mind who was guilty of this shooting?—A. No, sir; I have not. I do not know.

Q. And having reached the conclusion that your men did not do it, you were influenced, as I understood you, by these various

elements which I will enumerate: First, the good conduct of your men, their denial of their guilt, and your confidence in their truthfulness, and in this microscopic inspection to which you refer, and the unreliability, as it impressed you, of the witnesses who claimed to have seen them that night and to have identified them. All those things had their proper influence in bringing you to the conclusion you finally reached and still entertain, as I understand it?—A. That is it, sir. That is what I have tried to explain to the committee.

Q. Well, I understood it, and I think everybody else does. That is all I want to ask you.

By Senator SCOTT:

Q. Major, I want to ask you a question. Do you know of any feeling that existed on the part of Tillman and Crixell and other saloonkeepers, or by them against the saloonkeeper that was discharged from your battalion?—A. No, sir; I do not know anything about it, Senator. I never knew of such a saloon being in existence until this matter occurred; I never knew that there was such a saloon.

Senator SCOTT. That is all.

By Senator WARNER:

Q. Major, just a question. You have said that you would believe your men under oath?—A. Yes, sir.

Q. You are aware that a great number of them have been examined under oath, and all of the noncommissioned officers, by Colonel Lovering?—A. Have what, sir?

Q. Have been examined before Colonel Lovering?—A. Yes, sir; he examined a great many of them. I do not know whether he examined all or not.

Q. Well, you are familiar with their testimony?—A. Yes, sir; I think I am familiar with all the testimony taken at that time.

Q. And that did not change your opinion?—A. No, sir; it has not changed my opinion.

Q. You after that recommended the discharge of the men in the manner you did?—A. Yes, sir; I did that. I have stated that my opinion commenced to change, and did change, during my trial. Up to that time I believed that the men were guilty.

Q. Yes. Now, about the men who were arrested, and Major Clarke's report that he could not find evidence under the charges sufficient to warrant a trial; that is, you mean the trial of the individuals who were arrested?—A. Yes, sir.

Q. That is it?—A. Yes, sir. We always have to prefer charges against each individual man.

Q. Under those charges they could not find evidence?—A. Yes, sir.

Q. That applied to the individuals?—A. Yes, sir; under arrest at Fort Sam Houston at that time.

Q. That did not change your opinion?—A. No, sir.

Q. That your men had been guilty of doing the shooting?—A. My opinion changed, Senator—

Q. But that incident did not change your opinion?—A. No, sir.

By Senator BULKELEY:

Q. Were these men who were put under arrest supposed to be the ones most likely to be concerned in it?—A. I don't know, sir, by what process of reasoning Captain McDonald selected those men to have warrants issued for them.

Q. Captain McDonald selected those men?—A. Capt. William McDonald, of the Texas Rangers. He was the one—either he, or he got some one to swear out the warrants for these men. They were served on me in the presence of Mr. Kleiber, who is the district attorney for that particular judicial district of that part of the country; and on the strength of that I placed these men in confinement.

Q. The military authorities had nothing to do with their arrest?—A. Nothing at all, sir. This was a warrant issued on me out of Judge Welch's court.

By Senator WARNER:

Q. You have spoken of Mr. Kleiber there, the district attorney?—A. Yes, sir.

Q. He took hold of it after the citizens' committee got through?—A. He was one of the committee which I requested be appointed. If you will remember, I wrote a letter to Captain Kelly and asked him if he would not appoint a committee and come into the post and make such investigations as he cared to. Mr. Kleiber was a member of that committee.

Q. Did Mr. Kleiber ask you why it was you did not have the guns inspected that night?—A. Did Mr. Kleiber ask me?

Q. Yes.—A. No, sir; not that I am aware of. I do not recall that he did.

Q. You can not recall having had such a conversation, or you having given an excuse to him why it would have been useless to have the guns inspected?—A. To Mr. Kleiber?

Q. Yes.—A. I do not recall it, sir. I do not think that I did. Mr. Kleiber, with the other three members of this committee, came out to the post two or three times before this man McDonald was brought out, and I had a good many talks with Mr. Kleiber, but I do not recall anything was stated at all about the inspection of the rifles. It may be that I told him that I had an inspection of rifles as soon after daylight in the morning as possible, but I do not recall it, Senator, although I may have, because we talked about a great many things.

Q. The particular point I am calling attention to is not the inspection the next morning, but why you did not have an inspection that night?—A. No, sir; I do not recollect any such conversation.

Q. You do not recall saying to him, in substance, that that would have done no good; in substance, that the men could have cleaned the rifles in the morning?—A. No, sir; I do not.

Q. You have no remembrance of it?—A. I have no recollection of it. I realized perfectly well that it would be almost impossible to inspect those rifles at night. It is a very difficult matter to detect at night whether a rifle has been fired or not. But I do not recall that, Senator.

Q. That is all I want to ask.

By Senator FORAKER:

Q. Major, you have two or three times been asked about your recommendation that the battalion be discharged piecemeal, 20 per cent at one time and 20 per cent at another, and so on?—A. Yes, sir; that is my recommendation.

Senator FORAKER. That recommendation which Senator Warner speaks of is the one found at page 105 of Senate Document 155, part No. 1, dated September 20, 1906?

Senator WARNER. Yes.

Senator FORAKER. I would like to have that printed in the record in full at this point.

The document referred to is as follows:

FORT RENO, OKLA., September 20, 1906.

The MILITARY SECRETARY, DEPARTMENT OF TEXAS.

San Antonio, Tex.

SIR: In obedience to the department commander's instructions, contained in your telegrams of August 26 and 28, the enlisted men of Companies B, C, and D, Twenty-fifth Infantry, have been held at this post without privileges of any kind, and prior to arrival here, from August 14 to 27, were confined strictly to the limits of Fort Brown, Tex. Therefore they have had no liberty of any kind or character for over a month.

Since arriving at Fort Reno, in addition to allowing no privileges whatever, and being confined within the limits of the post, I have given the enlisted men of these companies extra guards, extra drills, and constant police work, besides having tattoo roll call for them, and always one and sometimes two check inspections after the regular 11 o'clock p. m. inspection.

At first I was under impression that these extra drills, police, and privations would have the effect of inducing some one who was not among the criminals, but who has the knowledge of the guilty parties to the shooting at Brownsville, to give some information that would lead to the detection of some of the men, but up to this time it has proven an utter failure, and I doubt very much if it will ever accomplish the desired results. In fact, I am of the opinion that it is having the contrary effect, by keeping the men constantly on their guard, and this view is shared by the officers of the battalion, as well as many of the old noncommissioned officers who are thoroughly reliable and trustworthy, and whose opinions in such a matter are worthy of consideration.

In view of this fact, I respectfully suggest that one of the two following plans be authorized:

First. Take off all restrictions imposed, return to the regular routine of post duty, and lead the men to believe the whole Brownsville matter has been dropped, but have three colored detectives enlisted and one assigned to each of the three companies.

Second. That authority be granted by the Secretary of War to discharge, if necessary, all but 20 per cent of the enlisted men of the three companies, the discharges to be so notated that enlistment again would be impossible.

To carry out this latter suggestion, I would have it published to the men that on a certain specified date, a month later, for instance, if the criminals were not detected and reported, 20 per cent of each company would be discharged. At the end of a second period of thirty days, if the men still remained undetected, a second lot of 20 per cent of the original numbers of the companies would be discharged, and so on, in periods of thirty days, until but 20 per cent of the men are left. The men discharged, in all cases, to be selected by the company commanders.

This latter is a drastic measure and should, in my opinion, be resorted to only after the first suggestion had been given a fair trial and had proven a failure.

I am strongly of the opinion that but few men have any knowledge of the deplorable Brownsville affair, but it is quite evident that these few will never betray their comrades under present conditions. The majority of the men, particularly the old soldiers who have served their country for years gallantly and faithfully and borne themselves honorably, feel this matter very deeply, and I

believe are doing all they can to detect the guilty, but it must be remembered the negro race is a very secretive one, and those having knowledge of the shooting, without being participants, will hesitate a long time, under most adverse conditions, before giving information.

I recommend that the first plan be given a fair trial, for once the present restraint is removed and the men given the usual liberty they will be much more apt to talk, and especially after drinking a little; but to be reasonably hopeful of success detectives must be employed.

Very respectfully,

C. W. PENROSE.

Major, Twenty-fifth Infantry, Commanding.

By Senator FORAKER:

Q. I notice you say with respect to it that you recommend that as an alternative provision?—A. Yes, sir. There was another recommendation that I favored. There was a second recommendation there that I favored being tried first.

Q. I want to ask you about this. You say:

I am strongly of the opinion that but few men have any knowledge of the deplorable Brownsville affair, but it is quite evident that these few will never betray their comrades under present conditions. The majority of the men, particularly the old soldiers who have served their country for years gallantly and faithfully and borne themselves honorably, feel this matter very deeply, and I believe are doing all they can to detect the guilty.

Now, all that was believed, of course, by you at the time?—A. Why, certainly, sir.

Q. You were writing exactly as you thought about it?—A. Yes, sir.

Senator FORAKER. That is all that I want to ask now.

By Senator TALIAFERRO:

Q. Major, just a question. You said you would believe your men under oath?—A. Yes, sir.

Q. Do you believe that they would have admitted the fact to you if they had been connected with this shooting?—A. You mean if any participated in it?

Q. Yes.—A. No, sir; I do not believe they would have told the truth about it if they had been connected with it. I was speaking generally, of course, that I would believe my men.

Q. You do not mean to say to this committee that if a number of your men did this shooting—assuming for the moment that they did—and an additional number knew of it, that those men would admit the facts to you; that you would believe them if they said that they did not do it?—A. I believe if any great number had known by whom the shooting was done—if it was done by these men—that they would have come to me and told me about it. I would certainly have believed them.

Q. Suppose there had been a conspiracy among your men to shoot up that town and that a few had been delegated to do the shooting. That would have made them all parties to it?—A. Yes, sir.

Q. Now, do you believe that under those circumstances your men would have told you the facts?—A. If there had been a conspiracy, I do not suppose they would.

Q. I understood you also to say that the colored man was secretive?—A. Yes, sir.

Q. Was secretive by nature?—A. Yes, sir.

Q. You meant, I suppose, in dealing with the white race?—A. Oh, yes, sir; entirely.

Q. Do you not think it is equally characteristic of the colored man that he is very communicative in dealing with his own race?—A. No; I do not think they are, sir. Now, Senator, I am speaking about colored soldiers. I do not know a thing in the world about colored people outside of colored soldiers. I wish to limit my remarks to colored soldiers. I do not know a thing about anything else. Of course I have seen colored people, like a great many of the rest of us have, but not to know anything about them, except colored soldiers.

Q. You do not mean to say to this committee that you believe that these men did not do the shooting because they have come here and sworn that they did not do it?—A. That is one of the reasons.

Q. That is one of the circumstances?—A. Yes, sir; it was one of them. I have tried to give them all.

Q. Still, you believe if these men had done the shooting they would have come here and sworn they did not?—A. I suppose they would. I do not suppose a man would come her and convict himself.

Q. Yes. That was exactly the way I felt about it.

By Senator BULKELEY:

Q. Do you think it would make any difference whether they were white or colored in regard to that?—A. I do not think it would; no, sir.

By Senator LODGE:

Q. I should like to ask the Major a question. You were acquitted on the court-martial?—A. Yes, sir.

Q. You were acquitted on the ground that the soldiers did not do the shooting?—A. There were exceptions made in the verdict, which stated that the soldiers, on the opinion of the court, did do the shooting.

Q. So I understood the finding of the court-martial.—A. Yes, sir.

Q. That the soldiers did do the shooting?—A. Yes, sir.

Q. Then the impression made on the court-martial, by the testimony which changed your mind, was not the same?—A. Not the same; no, sir. I differed with them in that.

By Senator FORAKER:

Q. Were the men on trial before the court-martial?—A. They were not, sir.

Q. Were they represented before the court-martial?—A. They were not, sir; had no representation.

Q. The man who was on trial was acquitted, and these men who were not on trial were convicted?—A. Yes, sir.

Senator FORAKER. I give notice that in due time that matter will receive attention.

By Senator LODGE:

Q. I want to repeat my question. I have not interrupted heretofore, and I would like to be allowed to ask this question, if I may. The court-martial has stated in its decision that the men did the shooting?—A. Yes, sir. I thought I answered your question, sir.

Q. You regard those microscopic examinations as final?—A. Yes, sir; I think so.

Q. That is, you think it is absolute proof?—A. I should think so; yes, sir.

Q. And of course you are aware that the microscopic examinations showed that there were several guns which could have been used?—A. Yes, sir.

Q. Therefore, as you regard them as absolute, it all turns on that one gun which you say could not have been used?—A. Yes, sir.

Q. Was it impossible that that gun should have been taken from that box?—A. I think it was; yes, sir; from the testimony of the company commander.

Q. I heard the testimony of Lieutenant Lawrason, if it is he to whom you refer.—A. Yes, sir.

Q. And I have read it since the committee sat in the morning, and I can not find anything in it that indicates impossibility; but that may be my fault.—A. Yes, sir.

Q. The box was not locked?—A. It was screwed down, as I understand.

Q. He did not seem to know whether it was screwed down or nailed down.—A. Yes, sir.

Q. But that is unimportant.—A. I think he stated, though, that in his opinion it had not been opened.

Q. Yes, that in his opinion it had not been opened.—A. Yes, sir. I do not know of anybody that could be as good a judge as Lieutenant Lawrason. He saw it packed up at Fort Niobrara and he saw it opened at Fort Brown.

Q. But you think that it is impossible that that could be opened and nailed up again?—A. Yes, sir; I do not think that was done.

Q. Then you think the microscopic examination was right about all these other guns?—A. I think it was probably right about that gun.

Q. Then how about the others?—A. I think they were probably right about that.

Q. Then will you explain to me what your theory is about the matter?—A. I think those shells were fired on the range at Fort Niobrara, Nebr. We had just completed our target practice before we went to Fort Brown, Tex. Each company has what is known as a decapper, which is a little instrument that takes the cap out of the fired shell. B Company had broken its decapper, and they took all of their shells, or almost all of them, that had been used on the range at Fort Niobrara to Fort Brown, with the intention of getting a new decapper and then sending the shells back to the arsenal. We get a certain proportion of cartridges for empty shells. That box was carried to Fort Brown, was opened a few days after the battalion arrived there to get some things out of the top of the box in which these cartridges were packed, and that box was left open on the back porch of the barracks for several days, I do not know how many. It contained all of these shells, or nearly all of them, that were fired on the range at Fort Niobrara, Nebr.

Q. Then am I right in supposing that your theory is that the people who did the shooting took these shells out of this box and scattered them in different parts of Brownsville?—A. Yes, sir; that is what I think.

Q. In order to direct suspicion to the soldiers?—A. Yes, sir.

Q. And then that, of course, implies that it had been a matter of some days that this plan had been carried out? I mean, I do not

suppose they took them that evening, probably.—A. I do not know, sir.

Q. You think they took them that evening?—A. No, sir; I do not know. I do not know when they might have been taken.

Q. But anybody could come up on the porch of the barracks and take them any time? There was no difficulty in getting them?—

A. No, sir; I think they could have, under the circumstances there. They were left open on the porch of the barracks.

Q. Anybody could come up from town and come up on the balcony and fill their pockets with shells for that purpose or any other purpose?—A. Yes, sir; I do not know that there was any difficulty about it. A sentinel was put there for the purpose of keeping a lot of these Mexicans away from the barracks. He was put on shortly after we arrived there. They complained that things were being stolen from the barracks. It was possible that anybody could have obtained these shells when the sentinel was at one end of his beat or at the other.

Q. I see.—A. In the daytime his beat was in the rear of the barracks, but after retreat it extended entirely around the barracks.

Q. And that these persons, with a view to this shooting up of the town and misleading public opinion as to who did it, supplied themselves with these shells?—A. I think so, sir.

Q. And scattered them about the streets? So that your first impression, that those shells had been recently fired, was, of course, a mistaken impression?—A. I said "recently fired." I do not know that you can—if a shell has been left out in the weather any considerable length of time it becomes a little corroded, almost always. If it is out there, I presume, a week or so, it becomes so. The shells I saw were not corroded. They might have been just fired at Fort Niobrara and have been perfectly bright. They come out perfectly bright after being fired.

Q. They must have been those fired at Fort Niobrara, if your theory is correct.—A. I think they were.

Q. (Continuing.) That the troops did no shooting the night before?—A. I think they were; yes, sir. We had no target practice at Brown at all.

Q. So that they must have been taken, of course, for that purpose?—A. I think so.

Q. To place in different portions of the town?—A. Yes, sir. Senator LODGE. That is all.

By Senator FORAKER:

Q. Now, Major, just a word. If those 11 shells that the report showed were fired out of this gun which was in the box, were in fact fired out of the gun, and the gun that night was in the box, it was impossible that they should have been fired that night in Brownsville, was it not?—A. Yes, sir.

Q. And that gun which was in that box that night locked up in the storeroom had never been fired, had it, except only at Fort Niobrara?—A. That was all, sir. It had never been taken out of the box at Brownsville.

Q. And Sergeant Blaney, whose gun it was, you say was one of the best soldiers of your company?—A. Yes, sir; he was a very good man. I considered him so.

Q. And when he came back his gun was returned to him in the same condition in which he had given it to the quartermaster-sergeant when he left, was it not?—A. Yes, sir; that is what I am told.

Q. He so testified.—A. Yes, sir.

By Senator OVERMAN:

Q. Major, suppose the quartermaster who had that gun and box in his keeping had been in the conspiracy, may it not have been possible for them to have opened the box and taken that gun out and given it to some soldier and then put the gun back afterwards and fastened up the box again?—A. No, sir; I do not think so.

Q. And nailed up the box again?—A. I do not think it could have been done. To open that storeroom and get that gun, considering the noise that it would have made, and put it back again would have been impossible; and they had other things piled on top of it. You remember the testimony as to that?

Q. Yes.—A. And then going in there about 1 o'clock—

Q. I remember the testimony. But suppose they were all in the conspiracy, could not that box have been opened and the gun taken out?—A. Oh, yes, sir; if they were all in the conspiracy, I suppose so.

Q. If the whole company was in it?—A. Yes, sir.

Q. I do not mean the officers, of course—the commissioned officers.—A. Yes, sir; if the whole of B Company had been in it, I suppose it could have been done; but I think it is extremely improbable.

By Senator FORAKER:

Q. Major, the gun was smeared with cosmoline, was it not?—A. I believe it was.

Q. And all the guns in the chest were fastened down with cleats?—A. They have cleats that hold both the butt and the muzzle, and it is customary, when they are packed away, to smear them all over with cosmoline.

Q. Would it not be a very improbable thing that men going out to shoot up the town would go to get a gun out of an arm chest in that position, when they had a gun rack full of them?—A. Yes, sir: I think so.

Q. And is it not necessarily so, that whoever did this shooting did some planning about it, and a good deal of planning?—A. Yes, sir: I think so.

Q. It was well thought out?—A. Yes, sir; I think so.

Q. With all you have been able to do, and you have done everything you could think of to do, you have been unable to get any clew in regard to it?—A. Not the slightest, at all.

Q. And that was the experience of Major Blocksom and General Garlington and Colonel Lovering also, was it not?—A. Yes, sir.

Q. So that it must have been extremely well planned and extremely well carried out if men in the battalion did it?—A. Yes, sir.

Q. Must it not?—A. It must certainly have been.

Q. And if, as Senator Overman suggests, they were all in a conspiracy, it would be still more difficult, would it not; that is to say, the difficulties would increase as they would increase the numbers engaged in it?—A. Yes, sir; undoubtedly.

By Senator OVERMAN :

Q. Was there any more difficulty in getting a gun out of that box that was locked up than in getting a gun out of that rack that was locked up?—A. Yes, sir; I think there was, sir. Well, I don't know; I could not say that. They would have to break open the rack if it was locked up, and they would have to break open the box if it was locked up.

Q. That is what I say; and there is about as much difficulty in getting a gun out of this rack as in getting a gun out of a box?—A. The box had a lot of other stuff on top of it—company property—bunk irons, I believe, and possibly some mattresses. I have forgotten exactly what he said it was under.

Q. But, as far as the difficulty was concerned, I understand you to say that it was just as difficult to get a gun out of the rack as it was out of the box, and just as difficult to get a gun out of the box as out of the rack?—A. Yes; unless they had a key to the rack. They would have to break the rack open to get a gun out without the key.

By Senator FORAKER :

Q. Would there have been any difficulty, then, after the firing was over, after the men were dismissed, to return the gun to the arm chest and screw down the lid and pile up the furniture and everything on top of it again?—A. I do not think so, sir.

Q. You have no doubt but what that gun was in that arm chest?—A. No, sir; there is no doubt in my mind about it.

By Senator OVERMAN :

Q. That is only an opinion?—A. Yes, sir; all of it is only my opinion.

By Senator BULKELEY :

Q. I am not familiar with court-martial proceedings, Major, and I assume you are. Is it customary for a court-martial to render a verdict against persons or parties who are not on trial before them?—A. Senator, that, in a measure, would be criticising the court-martial that tried me if I answered that, and I would rather be excused from answering the question.

Q. I have not said that any court-martial has done this, you know.—A. No; I understand that. If you will pardon me, I would rather not answer it.

Q. No; I will not press the question. You did answer a question in regard to the verdict that convicted the troops of doing the firing?—A. Yes, sir; that is apparent from the record itself.

Senator BULKELEY. Well, I read over the verdict, and I do not find anything that convicts the troops or accuses them.
(Witness excused.)

TESTIMONY OF CAPT. EDGAR A. MACKLIN, U. S. ARMY—Recalled.

The CHAIRMAN. You will remember, Captain, that you are still under oath.

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. Captain, since you testified a Mr. Billingsley, from Brownsville, has testified, and I read to you from the testimony as given by him, as found in our record on page 2475. Mr. Billingsley being on the stand was asked the following questions and gave the following answers:

Q. Were you in Mr. Crixell's place on the 13th of August?—A. Yes, sir; I went in there that evening.

Do you know Mr. Billingsley, let me ask?—A. No, sir; I would not know him if I saw him.

Q. He testified, as I will read presently, that he furnished milk and dairy products to the officers at the fort.—A. I did not keep a mess or did not run my own household at the fort. I lived with my company, had my meals brought over from the company, and I never used milk and never bought anything from him.

Q. I see. Now, I will read further from this:

Q. Were you in Mr. Crixell's place on the 13th of August?—A. Yes, sir; I went in there that evening.

Q. Did you have any conversation with Mr. Crixell?—A. I did; with Mr. Joe Crixell.

Q. Is he the proprietor of the saloon?—A. He was bartender that evening.

Let me ask you, do you know Joe Crixell, who kept a saloon there?—A. Yes, sir.

Q. (Reading:)

Q. Were there any officers in there then?—A. Yes, sir; Captain Lyon, Captain Macklin, and Lieutenant Lawrason were in there.

Q. Where were they and where were you with reference to the door?—A. Well, sir; I can indicate it to you by this table. They were, say, at the far end of the bar down there. This would be the far end of the saloon and the door fronting on Elizabeth street. They were at the far end, at the far end of a counter as long as this table. I stepped in, facing them, right at the door. I stepped in, and as I walked to the end of the counter—we very often shake dice down there for the drinks—and I said to Crixell, "I will shake the first dice out of the box for the drinks." Seeing these men in there was why I went in. I went in for a little information. Crixell came up to me and brought the dice box and threw the dice out on the counter, and I began talking to him, and I said, "Have you heard anything more about the Evans affair?" He says, "Nothing, particular." I says, "What do these officers say about it?" We were talking in a very low tone, not intending to be heard. He says, "Nothing." I says, "Have they done anything, or do they act like they are going to do anything in regard to this matter?" He says, "I don't think they will do anything," and I says, "Well, there ought to be something done, some way." I says, "At the rate these fellows are carrying on here I don't think that the soldiers or the officers either ought to be allowed in town if they don't do something to help or assist us or to stop these men from conducting themselves the way they are acting in the city." Then I turned around and walked out.

• At page 2479 he testified in reference to the same matter, commencing near the bottom of the page:

Q. About what time was it that you went to Crixell's saloon and saw these officers?—A. I don't know certainly, but it was between 1.30 and 3 or 4 o'clock.

Q. Did you see them go in there?—A. No, sir.

Q. You said you went in there for information.—A. I saw then standing in there talking to Mr. Crixell, and I thought it was a good chance to find out something about the Evans affair.

Q. You went in simply to learn, as you inquired of Mr. Crixell, what they were going to do or had done about the Evans matter?—A. Yes, sir.

Q. Mr. Crixell answered that he did not think they were going to do anything?—A. That is what he said.

Q. That he had not heard them say?—A. That he had not heard them say whether they were going to do something about it or not.

Q. And then you said that you did not think that either officers or men ought not to be allowed in town?—A. If they did not make some effort to catch the guilty parties.

Q. If they did not make some effort. Had you made inquiry of anybody else to find out whether they were making efforts to find out the guilty parties?—A. I don't know that I did, but I thought that was a good place to find out if they had done anything.

Q. Have you narrated everything that occurred there?—A. Yes, sir.

Q. That is all that you said?—A. Yes, sir; that is all that I said, and then I walked out.

Q. They did not say anything to you at all?—A. No, sir; they never spoke to me.

Q. They never spoke to you?—A. No, sir.

Q. Mr. Crixell did not speak to them at all?—A. He turned back to wait on them, and I walked out of the saloon.

That is the testimony of Mr. Billingsley. Now, I read from the testimony of Joseph Crixell, at page 2484 of our hearings, at the bottom of the page. Speaking of you:

Q. What did he say there, if anything, as to the result, the probable result, of such conduct by the citizens, as that of Mr. Tate, in striking the colored soldier and knocking him down with a pistol?—A. On the 13th between 2 and 4 o'clock in the afternoon, Captain Macklin and Captain Lyon and Lieutenant Lawrason came into the saloon, and they asked me to serve them three gin fizzes, and while I was mixing up the drinks he asked me, he says, "Joe, have you ever heard anything about a nigger being hit over the head with a six-shooter around here lately?" I said, "Yes; I heard a little about it." He said, "Have you heard the particulars about it?" I said the only thing I heard was that Mr. Tate, this customs officer, hit a nigger over the head with a six-shooter because this nigger would not give the sidewalk to some ladies.

Senator FORAKER. Speak a little louder.

A. (Continuing.) I told them that I had heard about the nigger being hit over the head with a six-shooter, and he asked me if I had heard any of the particulars, and I told him that I had heard that Mr. Tate had hit this nigger over the head with a six-shooter because the nigger had pushed his wife, or some other lady that was with him, off of the sidewalk, or something like it. Captain Macklin told me then, he says, "Yes; that is what they claim, but," he says, "Major Penrose and myself have investigated this thing thoroughly, and we have found out that these negro soldiers have been imposed on by the citizens and Federal officers of this town," he says, "and this thing has got to be stopped." He says, "Now, Joe, suppose these niggers would jump that barracks fence and shoot this damn town up any of these nights." He says, "We could not prevent it."

Q. Do you know Mr. Billingsley?—A. Yes, sir.

Q. Did you see him in your saloon that afternoon?—A. Yes, sir; just about that time. Just about the time that Captain Macklin made that remark Mr. Billingsley came into the front door and called me to the other end of the counter and asked me to shake for the drinks. He always was in there once or twice a day and wanted to shake dice for the drinks. I did. I left the officers at one end of the counter and went to the upper end of the counter, where Mr. Billingsley was, to shake with him; and when we got through shaking, and I was putting up his drink, he says, "Joe, have you heard anything about Mrs. Evans being assaulted by some negro soldier?" I said, "Yes; I heard something about it." He says, "Yes; that is bad." Then, of course, he was talking to me in a low voice; he says, "Have they found out anything about this fellow? Have they found out the guilty negro?" I says, "No; not by the way they talk." And then he says, a little louder than what he was talking to me before, he says, "Yes; it is a shame. We ought not to allow even these white officers to come in town. They are just as bad as the negroes;" and he walked out. Of course, after he walked out, I walked right back to where the officers were drinking, and Captain Macklin looked at me

and smiled, and then he turned around and looked at Captain Lyon, and said something low, that I couldn't hear, and he looked at me again, and he says: "Yes; these niggers will surprise this fellow yet," now referring to Mr. Billingsley, who had just walked out.

Now, Captain, I will ask if you remember, since I have read that to you, being in Mr. Crixell's saloon, the one kept by Joseph Crixell in Brownsville, at the time mentioned? He says that on the afternoon of August 13 you went in there about 3 or 4 o'clock, I think, in the afternoon.—A. No, sir; I was not there.

Q. Were you there at all that day?—A. Yes, sir.

Q. At what hour in the day?—A. Mr. Lawrason and Captain Lyon went out on a practice march on the morning of August 13. My company drilled. My drill was over at 9 o'clock, and after the drill I went over to the house and changed my clothes, and then walked down to as far as the Brownsville Herald printing office—I don't know whether it was the Herald, but I think it was the Herald office, it was a printing office—to get some printing that I had ordered there for my company. On leaving the office Captain Lyon and Lieutenant Lawrason were coming in, returning from their practice march.

Q. About what hour of the day was that?—A. That, I should judge, was between 9.40 and 10 o'clock, somewhere near, very close to 10 o'clock, probably at 10 o'clock. I told Captain Lyon that his printing which he had ordered there at the office was finished, and asked him if he wanted me to get it, and he said yes. I stayed in that printing office for about 10 or 15 minutes. When Captain Lyon and Mr. Lawrason returned to the town, which was a very short distance from the post, we all three went to Crixell's saloon, and we ordered three gin fizzes, one apiece.

Q. And this was about what hour of the day?—A. About 10 o'clock in the morning, sir.

Q. Did you see Mr. Billingsley there at that time?—A. I would not know Mr. Billingsley, Senator, if I were to see him.

Q. And you do not remember seeing him?—A. No, sir; I do not.

Q. Did you hear anybody make any remarks of the character mentioned by him and Mr. Crixell, as made by Billingsley at that time?—A. No, sir; I did not.

Q. Were you in that saloon again that day at any hour of the day?—A. No, sir; not at all that day, and not during my tour of duty. I don't think I ever was in that saloon again during my stay in Brownsville. That was the last time.

Q. Did you have any talk with Mr. Crixell of the character described by him?—A. I did not; no, sir.

Q. Did you make any remark to the effect that those negroes would surprise that fellow yet?—A. No, sir. A remark of that kind in my position would be suicidal. I never made such a remark as that.

Q. Did you say anything about those negroes jumping over the wall some time and coming up and shooting up the damned town?—A. No, sir; not in any way.

Q. No such remark as that was ever made?—A. No, sir; not at any time.

Q. All the time that you were in the saloon you were in the company of whom?—A. Captain Lyon and Mr. Lawrason.

Q. And they were near enough to you at all times to hear everything you said?—A. Yes, sir. We were right together at the lower end of the bar.

Q. You therefore flatly contradict the statement, do you, which has been put into your mouth?—A. I do, most assuredly; yes, sir.

Q. Did you ever have such a thought in your mind at any time prior to the 13th day of August, 1906, that the negro soldiers of that battalion would go out and shoot up the town, jump over the wall, get out into the town in any other way?—A. No, sir. As I have already testified, they were a well-behaved battalion. I never anticipated such a thing. If I had, I might have taken steps to have prevented it.

Q. Now, I will read from his testimony, at page 2494, further, on at same subject:

Q. Now, this was the afternoon of the 13th, when Captain Macklin and Captain Lyon and Lieutenant Lawrason came together into your saloon, as I understood it?—A. Yes, sir.

Q. Later than 1 or 2 o'clock, but not later than 5?—A. Not later than 4.

Q. Not later than 4?—A. No, sir.

Q. And they came in and ordered some drinks?—A. Yes, sir.

Q. What did they order?—A. A gin fizz each.

Q. They each wanted a gin fizz?—A. Yes, sir.

Q. You sold it to them?—A. Yes, sir.

Q. And they drank it?—A. Yes, sir.

Q. And while they were there getting their gin fizzes, and while you were sitting on them, Mr. Billingsley came in?—A. Yes, sir.

Q. And he called you to one side?—A. No, sir; he just called me to the other end of the counter.

Q. To the other end of the counter?—A. Yes, sir.

Q. How far away from them?—A. Twenty-four feet.

Q. Twenty-four feet?—A. Yes, sir; but they were not exactly on one end. They were about one-third of the way—that is, taking two-thirds of the counter, they were separated from Mr. Billingsley.

Q. Did he call you to the other end of the counter?—A. Yes, sir.

Q. And when you got up there he asked you what these officers were doing, or going to do, about finding out who assaulted Mrs. Evans?—A. Well, he asked me if I had found out anything through them about if they had found out who was the guilty nigger.

Q. He wanted to know whether you had found out through them whether they had found out who was the guilty negro?—A. Yes, sir.

Q. Was that the first time you had seen Mr. Billingsley that day?—A. The first time I had seen him that day.

Q. Did he seem to be excited?—A. Not until I told him that there was something done yet, by the officers' talk.

Q. Had you had any talk at all with these officers at that time?—A. I just had talked to them.

Q. About the Evans matter?—A. About the Evans matter?

Q. Yes.—A. Well, in connection. When he asked me about this nigger being it over the head, and all that, in connection with that.

Q. No; I am talking about the Evans matter. Did you have any talk with these officers about the Evans assault before Mr. Billingsley came in?—A. I do not think that we had touched that point—that is, to amount to anything.

Q. Did you talk about it at all?—A. I believe Captain Macklin did mention something about it.

Q. About the Evans matter?—A. Yes, sir.

Q. Do you not know, Mr. Crixell, when you came back to them?—A. Yes, sir.

Q. (Continuing.) That they at that time did not know anything about the Evans matter; that it was not known in the fort until Mayor Combe went to the fort to see Major Penrose, about half past 5 in the evening?—A. It was in the paper that morning.

Q. Do you not know that Major Penrose did not know anything about it until that evening?—A. That they did not know anything?

Q. I ask you if you did not know at that time that these officers did not know anything about the Evans matter?—A. No; I know that they did know.

Q. You know that they did know?—A. Yes, sir.

Q. How do you know that they knew?—A. Simply because they were in the saloon before that, just after Captain Macklin got in from the hike.

Q. From where; the heights?—A. Yes; from out on the hike; that is, he went out of the town on a march.

Q. They went out on a practice march, you mean?—A. Yes, sir; and just as they got in they came in my saloon, and everybody was talking about the matter already.

Q. Early Monday morning?—A. Not early. He got in just about 12 o'clock.

Q. Twelve o'clock?—A. Yes, sir; I think that was the time he got in.

Q. Captain Macklin was officer of the day that day, was he not?—A. He was in as officer of the day afterwards.

Q. Was he wearing his sword and his revolver and his sash and belt that day?—A. I believe he had his sword on.

Q. When he was down in the saloon?—A. Yes, sir.

Q. Was that usual, for an officer of the day to wear his sword and revolver and belt and sash?—A. I don't know anything about it.

And he further testifies, on pages 2496 and 2497, being all the testimony of Mr. Crixell on that subject. It is a little handier to have it inserted in the record here:

Q. You are sure this was in the afternoon of the 13th?—A. I am sure of it.

Q. After the Evans matter, and before the firing?—A. Yes, sir.

Q. Did you have any conversation with them when they were in there about the Evans matter?—A. Yes; just as I stated before; I am not sure if we talked about that matter or not, but I think we did.

Q. You have undertaken to give us the conversation you did have, and it related solely to the Tate matter?—A. How is that?

Q. You narrated the conversation you did have, in answer to Senator Warner's questions, and that conversation related only to the Tate matter?—A. Yes, sir; especially.

Q. You did not tell us, when you told Senator Warner about it, anything about the Evans matter?—A. I am not saying that yet, either.

Q. I understand from what you are saying now that you had some conversation—A. I say maybe I did. I am not sure of it.

Q. At any rate, when Mr. Billingsley asked you what you had found out, he told him that you did not think that they had done anything?—A. Yes, sir.

Q. Did you add that you did not think they were going to do anything?—A. No, sir; I said I did not think they had done anything.

Q. Mr. Billingsley immediately then made another remark to you and left the saloon?—A. That is all the remark he made.

Q. What was it?—A. He says this way. He says, "It is a shame;" he says, "We ought not even to allow the white officers in town; they are just as bad as the niggers."

Q. Did he say that in a pretty loud tone?—A. Not too loud, but loud enough for them to hear it.

* * * * *

Q. Did he use any profanity when he made that remark?—A. Well—

Q. Didn't he swear a great big, ugly oath?—A. That is the only—

Q. And haven't you testified once before, to Mr. Purdy, that he did use an oath?—A. I testified before Mr. Purdy.

Q. You gave your affidavit to Mr. Purdy, didn't you?—A. Yes, sir.

Q. Not printed, but you gave it all the same?—A. Yes, sir; I know I gave it.

Q. And didn't you in that affidavit recount this same conversation?—A. I am pretty sure that it is the same that I am saying here. Of course it is a matter of eight or nine months ago. It may be one word, you know, that I may forget, but it is just on the same principle—the same thing.

Q. The reason I made the remark that that affidavit was not printed—it is no secret that this affidavit was taken, but the Secretary of War stated that he withheld this affidavit because it affected Captain Macklin, who was then under charges, and would be court-martialed and tried.—A. Yes, sir.

Now, was the Evans matter talked about by you or not—I mean you and Captain Lyon and Mr. Lawrason—when you were in that

saloon?—A. To the best of my recollection, Senator, we did not know anything about it at that time.

Q. At that time?—A. Yes, sir.

Q. You had been drilling all the morning?—A. Yes, sir.

Q. What time did you go out to drill at that time?—A. I usually got up about 6 o'clock, and we went out to drill at 7.

Q. You had to get up and have your breakfast and everything and get ready?—A. And the companies going on the practice march left the post at 6 o'clock.

Q. And at the time you were in there did you have any talk with Crixell on that subject?—A. I do not recall any, sir; not at all.

Q. Did you have any talk among yourselves?—A. No, sir; not among ourselves.

Q. Did Crixell make any inquiry of you in regard to it?—A. No, sir; he did not.

Q. Now, Captain, you remember the Newton-Tate affair?—A. Yes, sir.

Q. You remember the Newton-Tate difficulty. Tate was a customs officer, and he attacked Newton, who was a private in your company?—A. Yes, sir.

Q. That is the affair. Can you tell us about Newton—what kind of a soldier he was, and what kind of a man he was, generally speaking?—A. Soon after I took command of my company, which was Company C of the Twenty-fifth Infantry—

Senator WARNER. I will say that you will find all that in his evidence before.

Senator FORAKER. I do not think I asked him anything about it when he was here before.

Senator WARNER. Go ahead.

Senator FORAKER. I think he testified before the court-martial, but I do not think I asked him anything on the point here.

The WITNESS (continuing). A. Soon after I took command of my company—Company C of the Twenty-fifth Infantry—which was in December, 1904, I made Newton my company clerk. I always regarded him as a very trustworthy man, and a man of very good character. I think it is possible that I had him tried once, but not over once.

Q. The record shows that he had four convictions while he was in Company C of the Twenty-fifth Infantry, and that he was fined \$3 in one case, and in each of the others he was fined \$1.—A. Yes, sir. They are all minor offenses; but as the average soldier goes, he was a very good soldier.

Q. Those fines and punishments would indicate that those were not serious offenses?—A. Yes, sir.

Q. Now, what did he do as to this trouble, so far as you were aware of it, after it had occurred? Did he come to you about it; and if so, what did he do?—A. I believe that he came to me immediately.

Q. That night?—A. He came to me before 9 o'clock on the night that it occurred. The exact date I have forgotten, but I think it was a week before the 13th of August. He reported the matter to me in toto, and I told him that I would report that matter to Major Penrose, the commanding officer, and have it investigated.

Q. The testimony is that this happened probably between 8 and 9

o'clock on Sunday evening, August 5.—A. Yes, sir; it was just a week before the 13th.

Q. And at any rate, right afterwards he came to you. Was the wound still fresh?—A. Yes, sir. He had been to the hospital to have it dressed. He went up to the hospital to have it dressed, I believe, and then came to me. He was not in a very excited state, and I told him: "You go home, Newton, and I will report the matter to Major Penrose in the morning, and we will have it investigated."

By Senator OVERMAN:

Q. He came to you before 9 o'clock?—A. I think it was; yes, sir.

Q. He had already been to the hospital?—A. I think so. I am not quite positive on the dressing of the wound, whether I saw the dressing or the wound itself. It was a long time ago, but I was very much impressed by his coming right there on my lawn, and I believe that Mr. Grier was present at the same time when he came up.

By Senator FORAKER:

Q. The testimony is that he went to his barracks after he was hurt and washed the blood off his face, and then he went to you and reported, and then he went to the hospital. May that be correct?—A. It is possible it is. It is a long time and I have had a good many things to think of since.

Q. However that may have been, did he seem to be satisfied when he had turned the matter over to you?—A. He seemed perfectly satisfied, and he was perfectly calm and cool about it.

Q. What was his disposition? Was he a revengeful, plotting, dangerous kind of a man, or the opposite?—A. I don't think he was; no, sir. He was the opposite.

Q. The opposite of that?—A. Yes, sir.

Q. Rather a quiet man?—A. A very quiet man, very peaceable; I never had any trouble with him at all.

Q. You knew him very well?—A. I knew him very well. I saw him constantly for four or five hours a day, every day for over a year, and then I used to see him casually at drill after I relieved him from the office. I got a better clerk.

Q. Was he such a man as you think would form a conspiracy and lay a plot or arrange a plan to go out and shoot up the town at midnight?—A. No, sir; I don't think he could; I do not.

Q. And now, as to Lipscomb, what sort of a man was he? Was he a man who was disposed to tell the truth, or otherwise?—A. I always found him so. He was a very quiet, orderly soldier.

Senator WARNER. This has all been gone into before; I call that to your attention.

Senator FORAKER. Very well, I will pass it.

Senator WARNER. In the interest of the economy of time, that is all.

By Senator FORAKER:

Now, Captain, it was testified by General Garlington that Major Penrose told him that you told Major Penrose that at the time when you were out there, the morning after the shooting, looking for shells, that you covered up some shells with your foot, out in the alley. Tell us what the fact is in regard to that matter.—A. As I have already testified—

Q. In that connection, let me ask you to tell us again, although you told us once, what you found in the way of shells and where you found them.—A. As I have already testified, I stated that I went outside the garrison wall, and walked down the wall to near the mouth of what is known as the Cowen alley, or the alley, and I found these shells in a radius of about 8 inches, and there was one shell off about 4 or 5 feet that I did step on, and I believe that I told Major Penrose that; in fact, I am certain that I did. The rest of the shells were all in one bunch.

By Senator OVERMAN:

Q. Didn't you tell Major Penrose that you found those shells, some of them, between the oil house and the mouth of the alley?—A. No, sir. The oil house is inside the wall.

Q. Well, opposite that oil house, from that point up to the mouth of the alley, didn't you tell Major Penrose that you found some of those shells there?—A. No, sir; I am positive that I told him that I found all those shells at the head of that alley.

By Senator FORAKER:

Q. Did you find any along the wall?—A. No, sir; I did not.

Q. You went along the wall?—A. Yes, sir; I went along there.

Q. But you found the shells, all with the exception of one, in a bunch, as described by you, at the mouth of the alley?—A. Yes, sir. I went along the wall, from what is known as the D Company sink, which is shown on the map possibly.

Q. B Company sink is not shown there, but the testimony of Major Penrose was to the effect that the B Company sink, the eastern end of it, was on a line with the western line of that alley.—A. This is D Company, sir.

Q. Oh, D Company.—A. I went from there. I could indicate it on that map.

Q. I wish you would take the pointer and indicate it.

Senator WARNER. May I make this suggestion, not in the way of criticism, but are we to go into all this examination again? It was all gone into before. I do not want to cross-examine him. Certainly it makes it no better to swear to it twice or three times.

Senator FORAKER. The only reason is that General Garlington testified to something entirely new, and the witness ought to be allowed to explain it, I think; but I do not want to go into it for one minute if you do not. I am satisfied with the testimony about the shells just as it stands, so I will accept your suggestion. If it is not necessary to go into this, I will examine him on other points.

Senator WARNER. This was gone into fully.

By Senator FORAKER:

Q. I understand. I do not want to appear to evade anything. Now, can you recall any circumstances that will indicate the darkness of the night, any experience that you had, meeting men, or the difficulty you had in recognizing men?—A. Yes, sir; I had several personal experiences that night. After Major Penrose put my company on the chain of sentinels, it was necessary for me to visit those sentinels, and at the upper end of the garrison, extending beyond the garrison wall, I had several posts, just how many I have forgotten now,

and in one or two instances I could not find them, and had to call out to them to locate them; and in those cases I found the men within 10 or 15 feet of me. Shortly after—well, it was after my return to Fort Reno—I saw a statement that the night was a moonlight night, and I looked the matter up on the calendar and found that the moon set on the night of August 13 at about 9 o'clock, I think it was. It was a very dark, what we call a dark, starlight night. The stars were very bright, as they are in the Tropics. Otherwise it was very dark.

Q. How far away from you, according to your recollection, could you distinguish the kind of clothing the men were wearing, if you could see them, as to whether they wore uniforms or not?—A. Well, I should say 10 or 15 feet, Senator; not over that.

Q. You would not think it possible to tell whether the men you might see were white men or negroes, at a distance of a hundred feet away in the dark?—A. I don't believe you could tell it at 15 feet; in fact, on those visits there that I went on, I carried my revolver in my hand.

Q. All the time?—A. Yes, sir.

Q. And you could not tell whether they had on yellow uniforms or not?—A. You could not see at all. Everything was just a blank.

Q. What is your experience as to the flash of the guns lighting up and enabling you to see?—A. I do not recall that I have ever had any experience in seeing any guns fired at night at all, Senator.

Q. Now, Mrs. Leahy has testified since you were on the stand. Do you remember her?—A. Yes, sir; very well.

Q. Without stopping to read her testimony, she testifies that the morning after the firing, about 5.30 o'clock, she left her home and went up Fourteenth street to the Cowen alley, and then turned to the right on Cowen alley and went up to the Garrison road, where I point. This is the Leahy Hotel here.—A. Yes, sir.

Q. That she left her hotel, went up Fourteenth street to the Cowen alley, then along the Cowen alley to the Garrison road, then up the Garrison road past Washington and Adams streets, up to Jefferson street, to where her mother lived, and she testified that she returned at 6 o'clock, or in time to get breakfast at 6 o'clock, or some such expression as that, and that at that time, between 5.30 and 6 o'clock, as she came out of the mouth of the alley and turned up the Garrison road, she saw five or six men—soldiers—on the upper rear gallery of B barracks cleaning their guns. State where you were about that hour in the morning, and if anybody was allowed on that road at that time.—A. My chain of sentinels extended all along that wall. There was no one allowed along that road. I was at the main gate, right there at the main gate, where I had a perfect view of everything, and I am perfectly satisfied in my own mind, because I went out in the street and stood out in the street most of the time, that no one whatever went down that road.

Q. No one at all?—A. No, sir.

Q. And you were there all the while, were you not, in a position that enabled you to see what was going on in the rear of the barracks?—A. I saw the whole thing.

Q. On those galleries?—A. I had with me a guard there, including two sergeants, Sergeant Harley and Sergeant Carlisle, and when I

stood out in the main roadway there those men asked me to please come inside and get behind the wall.

Q. Now, in the morning, about what time was it that you went outside and found the shells?—A. It was just as soon as it was light enough to see. I can not tell you the hour.

Senator WARNER. This has all been gone into.

Senator FORAKER. I know that; but I want to go into it with special reference to Mrs. Leahy.

The WITNESS. I can not really tell you the hour, Senator, but it must have been close to 5.30.

Q. What other officers were there in that vicinity?—A. The major came there just about as it grew daylight.

Q. Major Penrose?—A. Yes, sir.

Q. And he was there examining the barracks, was he not?—A. Yes, sir.

Q. Covering that whole period?—A. Yes, sir.

Q. That is, from 5 until after 6 o'clock?—A. I think nearly every officer in the post was there around that main gate between 5 o'clock and 6 o'clock; probably not all there at the same time, but they all came around.

Q. Could there have been any such thing as the congregating of five or six men out on the back porch there and the cleaning by them of their guns, occupying any length of time, without some of you seeing them?—A. I am satisfied they could not, because on that morning, up to the time that the first call for reveille sounded, which was a quarter to 5 o'clock, there was no one out at all. The barracks were unusually quiet. The men had been disturbed in their sleep and they were all inside, and to the best of my knowledge there was no one out except the members of my own company.

Q. Now, it has been testified by Captain Kelly that the men of your battalion were a slouchy, slovenly, and unsoldierly looking set of men. Is that true or not?—A. No, sir; it is not.

Q. It has also been testified that Major Penrose created a bad impression on one occasion by appearing out on the walk in a dirty khaki uniform, without any collar on. State what the probabilities are as to that.—A. The statement is entirely false. Major Penrose is one of the neatest officers that I know of in the Army. He is very particular about his uniform, dressing two or three times a day. He always wears clean khaki, and at Fort Brown I think he invariably put on a clean suit of white clothes every evening; and Captain Kelly, if he makes such a statement, is mistaken.

Q. Now, Captain, were you with your company when it was going down from Fort Niobrara to Fort Brown, on the railroad?—A. Yes, sir.

Q. Do you remember how the companies were located in the train; that is, which company was at the head, and how they came in order?—A. I think it was B, C, and D, sir.

Q. B, C, and D?—A. Yes, sir.

Q. That would put D at the rear end of the train?—A. Yes, sir; and next to the officers—next to the Pullman.

Q. The captain of Company D was the ranking officer—Captain Lyon was the ranking officer?—A. Yes, sir; then the next one my cwn, and then the next Lawrason's.

Q. Do you remember seeing the conductor who was in charge of that train after you left Sinton for the next 160 miles into Brownsville?—A. Why, I do not recall that; no, sir.

Q. Did you hear any report from him or anybody else of any bad conduct on the part of your men, in conversation or otherwise, towards him?—A. No, sir; I did not.

Q. He made no report; no complaint of any kind?—A. No, sir. I think I was officer of the day that day, and if there had been any I would have heard of it.

Q. Now, Captain, how long have you been a company commander?—A. Well, there are a few breaks in it, Senator—

Q. About how long?—A. I started commanding a company on the departure of Major Penrose to the United States from Porto Rico in 1898, and, with the exception of a few months, I have commanded a company almost all the time since then.

Q. Then for several years you have been a company commander?—A. Yes, sir.

Q. As company commander you are responsible for the equipment of the men?—A. Yes, sir.

Q. Their arms and guns?—A. Yes, sir.

Q. And you have inspected them?—A. Yes, sir.

Q. You can tell a gun that has been fired from an examination of it?—A. I believe I can; yes, sir.

Q. And you can tell when a gun that has been fired has been cleaned so that it will pass inspection?—A. Yes, sir.

Q. You have testified before about the inspection of your company the following morning, after this firing; and without going over it again, it was a rigid inspection, was it not?—A. Yes, sir; a very rigid one.

Q. Let me ask you a question that has been handed to me by another member of the committee. It is, if it be not true that the negro is a good-natured, happy-go-lucky, and forgiving sort of a character? Is that not true?—A. Yes, sir.

Q. That he is of that general disposition?—A. So far as my own experience has gone, he is; yes, sir.

Q. Did you have anybody in your company who was so marked with freckles or spots of any kind on his face as to be noticeable?—A. No, sir; I did not. Nearly all the men of our battalion were pretty dark. There were a few light ones, but I don't remember any of them that had freckles.

Q. Was it possible, remembering the darkness of that night, to see freckles or spots on the face of a man any distance away from you?—A. No, sir; I do not think so. I do not believe, in fact I am very certain, that you could not have told a white man from a colored man 10 feet away.

Q. Here are two guns, each of which, we are told, has been fired five times. One of them has been cleaned and one of them has not been cleaned. I wish you would look at these guns, take the bolts out, and see.

(The witness examined one of the rifles.)

Q. You have looked through that gun, have you?—A. Yes, sir.

Q. That is what number?—A. No. 245484.

Q. In what condition do you find that gun?—A. It is dirty.

Q. That is a dirty gun, isn't it?—A. Yes, sir.

Q. Look at the other one, now.—A. They are both dirty.

Q. Would you pass that gun on any inspection occasion?—A. No, sir; I would not.

Q. You would not allow a man to go on guard with a gun as dirty as that, would you?—A. No, sir; I would give him an extra tour of duty.

Q. Give him an extra tour of duty if he would present a gun as dirty as that gun?—A. Yes, sir.

Q. Was the inspection of the guns the morning after the shooting rigid enough to reject a gun that was found in that condition?—A. Yes, sir; we had no gun as dirty as that. There were none in my company as dirty as that gun.

(At 3 o'clock and 52 minutes p. m., the committee adjourned until Wednesday, June 12, 1907, at 10 o'clock and 30 minutes a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Wednesday, June 12, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, and Overman.

Senator LODGE. Mr. Chairman, we have all heard this morning, with the deepest regret, of the death of Senator Morgan, of Alabama, one of the oldest and most distinguished members of the Senate, and greatly honored and beloved by us all. This committee is the only portion of the Senate now in session, and I am sure that it will be the desire of all the members that we should mark our sense of the loss which the Senate and the country have sustained in the death of our colleague. I therefore move you, Mr. Chairman, that this committee do now adjourn as a mark of respect to the memory of Senator Morgan.

The question being taken, the motion was agreed to, and the committee adjourned until to-morrow, Thursday, June 13, 1907, at 10.30 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Thursday, June 13, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Taliaferro, and Overman.

TESTIMONY OF CAPT. EDGAR A. MACKLIN, U. S. ARMY—Continued.

By Senator FORAKER:

Q. Captain, you were testifying about the cleaning of these guns, I believe, when we adjourned?—A. Yes, sir.

Q. Will you please state what your experience has been as to cleaning guns with the thong brush; whether that has been found an

efficient facility?—A. Personally I have never cleaned a gun with it, but I have asked the first sergeant and numerous other soldiers in regard to it, and they have told me that it will not do it clearly or successfully; that you must use a rag. And on the target range we have the three or four brass rods that are allowed the companies, and use those on the target range all the time to clean the rifles, and have rags and oil.

Q. Now, do you remember seeing Captain Kelly and his son when they visited the post, as the Captain has testified they did, some day before this shooting occurred?—A. Yes, sir. I had never met Captain Kelly previous to this time, but I had met his son in Porto Rico, and I was rather interested in seeing him. I saw him enter the garrison. The two of them came in and they walked up to Major Penrose's house. I was sitting on the front lawn looking up the line, and I saw them. In a moment they came out—right away—and went down to Lieutenant Grier's house, and then they came to my house in company with Lieutenant Grier, and he introduced me to both of them. I had met young Captain Kelly before, and he recalled that we had met.

Q. Do you know whether or not they met Major Penrose?—A. Major Penrose was not in sight at the time on the line. I had a view of the entire front of the line.

Senator FORAKER. That is all, I think.

By Senator WARNER:

Q. There is nothing that recalls to you whether Major Penrose was in sight; nothing especial about that, is there?—A. No, sir; except the hour. I noticed the hour of the evening, and I was satisfied that he would not meet the Major. Previous to this time he had not called on him, and, if I am not mistaken, several of us thought it was rather strange—not the Major; he did not express any opinion, but the junior officers—because he was one of the representative citizens of Brownsville.

Q. Yes; understood to be one of the representative citizens?—A. Yes, sir; and he came out, I think, the day that his son returned from Mexico.

Q. Returned to Mexico?—A. From Mexico. He had been down into lower Mexico.

Q. As to this cleaning of the guns with the thong brush, you have no experience whatever?—A. I have never done it myself.

Q. But you think it requires a rag to clean it?—A. I am satisfied of that, sir; because, as I have said, they use the ramrod.

Q. But by using the thong with oil and a rag, you would not say that that could not be done?—A. No, sir; I don't know anything about it, personally.

Q. You do not know anything about it. The object of the thong brush, and you get it from your noncommissioned officers, is to remove part of the powder and loosen it up, and then the idea is to use the rag with oil afterwards?—A. That thong brush is in the butt of every rifle.

Q. That is the purpose of it?—A. Yes, sir.

Q. Now, Captain, something has been asked about Crixell's saloon—Joe Crixell's. That was considered the leading saloon of the city, was it not?—A. Well, I can not tell you whether it is the

leading saloon, Senator, but it is the one that was always patronized by the officers of the post. There were no soldiers allowed in there, and they did not cater to the soldiers' trade, and the officers, in going downtown, some of them would go in and get anything they wanted.

Q. And that was the place patronized by the officers?—A. Yes, sir. I do not believe any of us went anywhere else much. I know I was not in any other place in town during the whole time I was there.

Q. That practically was true of the other officers, as far as you know?—A. Yes, sir; as far as I know. It is not Joe Crixell's saloon; it is Teofilo Crixell's.

Q. You are not speaking of the White Elephant Saloon?—A. No, sir; this is what is known as Crixell's saloon—that is, Teofilo's; not this man's they have sent up here.

Q. It is the one opposite Tillman's?—A. I do not know where Tillman's is. I could not tell you, sir.

Q. It is the one on the main street?—A. Yes, sir.

Q. You knew Mr. Joe Crixell?—A. Yes, sir.

Q. He was regarded as a responsible citizen there, was he not, as far as you know?—A. I knew very little about him, as to his standing in the community, or anything of that kind. He seemed to be a reputable man there.

Q. About how often were you in that saloon, Captain? I am not asking as reflecting on you at all, but each day about how often would you be in there?—A. I might answer that by saying that the days that I was not on duty, if I went into town, I would probably go in there once each time I went down.

Q. You went in there nearly every time you went downtown?—A. Yes, sir; I think nearly every time I went down there.

Q. And this day you have been asked about, when you were in there, what day was that?—A. The morning of August 13.

Q. When did you go on duty as the officer of the day?—A. It was between 10.30 and 11 o'clock. The orders at Fort Brown were fixed for guard mounting every morning, except on the days of the practice march, and on the days of the practice march guard mounting was held twenty or thirty minutes after the return of the last company; I have forgotten whether twenty or thirty minutes.

Q. But it was between 10 and 11 o'clock?—A. Yes, sir; I can not fix the exact hour.

Q. Now, when you were in there you heard a conversation, did you not, between somebody—some remarks by some one?—A. As near as I can remember, there were two or three traveling men in the place at the time, and their conversation was very vulgar and obscene and bore on a trip they had had the previous night over to Matamoros, and I did not pay any attention to it; I stood aloof.

Q. Did you not hear some conversation there reflecting on the officers of the post?—A. No, sir.

Q. You did not hear any remarks?—A. No, sir; not a thing.

Q. You did not hear anything of that kind?—A. No, sir.

Q. The number of officers you had at Fort Brown was not the usual complement, was it?—A. Oh, no, sir; we were very short.

Q. You were short of officers?—A. Yes, sir.

Q. The fact is, that when you went on duty as the officer of the

day, it left your company without any commissioned officer?—A. Yes, sir.

Q. And the fact is, is it not, Captain, that if the soldiers had been so disposed to go out of the barracks along about midnight, there would be nothing especially in the way to prevent it?—A. The only thing, Senator, would be the sentry on that post, if he would see them.

Q. Yes; and he had several hundred yards to go in traveling his beat?—A. Yes, sir; he covered quite a good deal of distance.

Q. You knew of the Evans incident, did you not?—A. Yes, sir; some time that evening I heard of it.

Q. I do not care about going into the exact details of that. You knew also that the colonel of your regiment objected to the battalion being sent to Brownsville?—A. Yes, sir; I knew of it by hearsay.

Q. That is, it was commonly spoken of?—A. It was commonly known. I can not say that it was to Brownsville he objected, but it was to sending them to summer maneuvers at Austin, Tex. I do not know whether it was to the Texas post or to the summer maneuvers.

Q. However that may have been, that was the common understanding?—A. Yes, sir.

Q. Now, Captain, shortly after you went to your room on the night of the 13th you were awakened, were you not?—A. It was about an hour afterwards.

Q. Were you not awakened in the meantime? About five minutes of 12 did you not get up and look at the time?—A. I thought I heard a knock. That was at five minutes—at about five minutes of 1.

Q. Had you not heard one before that?—A. No, sir; I have not said so.

Q. I did not ask you whether you had said so, Captain.—A. Well, no, sir.

Q. Pardon me if I do not speak loud enough for you to hear. I asked you if you had not heard one before that?—A. No, sir.

Q. And had not ever so stated?—A. No, sir.

Q. You know Mr. Kleiber?—A. The little man out here?

Q. Well, the district attorney.—A. Yes, sir.

Q. Well, not very little; about as large as you or I. And you made a statement to him, did you not, as to where you were that night?—A. I have had numerous conversations with him. I do not recall now whether I did or not, Senator. The morning of August 14, at the time when I reported to Major Penrose, I reported all my movements during that evening, and have also stated them since to General Garlington and to Colonel Lovering and to Major Blocksom.

Q. I ask you about this particular conversation, if you recall it?—A. I do not recall any particular conversation; no, sir.

Q. Have you not, Captain, stated that there was a feeling of uneasiness among the officers after this shooting, about going out at night?—A. After the shooting?

Q. Yes.—A. Well, Major Penrose gave orders on the 14th that we were not allowed to go out into town. That was on the advice of the mayor.

Q. I know, but I ask you if you did not understand that there was a feeling of uneasiness among the officers as to leaving your quar-

ters?—A. We had guards put around the post, and I never had any feeling of uneasiness.

Q. Did you increase the guards, after that night, around the place?—A. No, sir; there was one company each night.

Q. Yes; but prior to that time you did not have one company each night?—A. Not prior to the shooting. We only had on four sentries prior to the shooting.

Q. After that you increased it to an entire company?—A. Yes, sir. We had all the available men of each company. I can not recall how many posts there were, but there were a number of cossack posts extending from the rear of D Company barracks to about the end of the quartermaster's storehouse. In fact, the last post was on the porch of the quartermaster's storehouse, which had a view off to the east. These posts were some of them about 100 yards apart. I can not tell you the exact distance, but they covered the ground very well.

Q. That is, the cossack posts, and the men would march from one post to meet those of the next?—A. Not with the cossack posts. They are supposed to be stationary.

Q. And then you had the additional guard inside?—A. The additional guard inside; the interior guard of the garrison.

Q. A cossack post is so stationed as to be ready when called?—A. Yes, sir.

Q. And those posts continued up to the time you left there?—A. Yes, sir; we continued them up to the day we left.

Q. Company A did not get there?—A. No, sir; I believe they were stopped by Major Blocksom.

Q. That company belonged to that battalion?—A. Yes, sir; the first company of the battalion.

Q. That company ranked up with the other companies, did it not?—A. Yes, sir.

Q. You mean in proficiency and discipline?—A. Yes, sir.

Q. Now, Captain, without going into particulars, you were wounded, there at Reno, was it not?—A. Yes, sir.

Q. By a member of Company A?—A. Yes, sir.

Q. How long had that soldier been in the service?—A. I can not tell you, Senator, but I think he was in his first enlistment; and after he had been arrested at Reno they found that he was a deserter from the Navy, and the Navy Department wanted him, but the War Department refused to turn him over on account of his assault on me. I can not tell you what his service was. In fact, I never saw the man until he came out of the hospital.

Q. What was the occasion of the assault on you?—A. Do you want me to go into the details of it?

Q. Not the details, but do you know what the occasion of it was?—A. I do not know what the occasion was, Senator, whether attempted robbery or assassination.

Q. I believe you have stated that it was not robbery.—A. Yes, sir; I say I believe to-day it was not. I would like to know.

Q. You have been asked something about putting your foot on a cartridge.—A. Yes, sir.

Q. In the mouth of the alley?—A. Yes, sir.

Q. Why did you not pick up that cartridge, Captain?—A. I do not know, Senator. It was off quite a little ways, and these people

were all looking down the line, there, and I just put my foot on it. I don't know why I did it. I had no particular motive except just burying it in the sand. It was not to shield the men in any way.

Q. I did not ask you that; but it was to bury it in the sand?—A. Yes, sir; the sand was quite deep, there.

Q. You went out looking for cartridges?—A. Yes, sir. I went out for that purpose.

Q. And pick them up, and you did pick up some. When you took these cartridges that you picked up to Major Penrose, what did Major Penrose say?—A. He said, as nearly as I can recollect, "That looks very much as if the men had done the shooting."

Q. What did you say?—A. I do not remember now whether I made any comments or not. I do not believe that I did. He said also to keep them, and I put them in my pocket.

Q. You have stated heretofore what you did with those, and I will not go into it again.—A. Yes, sir.

Q. Now, when he said, as you have stated, "It looks very much as though some of my men had done the shooting;" was that it?—A. I believe that was nearly the language, as nearly as I can recollect. It was shortly after that that Major Penrose started in his investigation in the adjutant's office, and I was not present at any time. I do not know who they were, except Captain Lyon and Major Penrose were there, and then the citizens' committee came up, and the Major directed me to have my guard formed, and to wait at the adjutant's office, which I did.

Q. What I wanted was to return to that conversation. When Major Penrose made that remark to you, I understand you do not remember any remark you made?—A. No, sir; I do not recollect it now.

Q. Did it not look to you as though some of the men had done the shooting?—A. Yes, sir; it seemed so, naturally, on account of the shells.

Q. And if you had not believed so at the time you would have said something to Major Penrose as to differing with him in his judgment, would you not?—A. Well, I do not believe I would. Senator, because Major Penrose was my commanding officer, and I was not called upon to make any remark to him, or any suggestion, or anything.

Q. But it did make the same impression on you?—A. Yes, sir; it seemed so. It looked very much so.

Q. And you continued of that opinion, did you not, Captain?—A. Yes, sir.

Q. Right along?—A. Yes, sir; I could not believe anything else.

Q. Did you ever change your opinion?—A. Yes, sir.

Q. When was that, Captain?—A. Well, it was after the time that the men had stood the strain that they were under at Fort Reno, from the time they left Brownsville until their arrival at Reno, and the duty that they did at Fort Reno; and then seeing the discharge of those men.

Q. I think, Captain, I will not pursue that further, because I think that was gone into very fully before.—A. Yes, sir; I think I have testified to that before.

Q. The night of the shooting you sent out four or five patrols, did you not?—A. Five; yes, sir; and I went out myself.

Q. And you sent out one man, an unarmed man, down to the ferry-boat?—A. That was included in that number.

Q. In the five?—A. Yes, sir.

Q. And you yourself went down into the town?—A. Yes, sir.

Q. What time of night was it you went down?—A. I think it was very close to 8 o'clock, sir. It was either a little after or a little before; I think it was a few minutes on either side of 8 o'clock.

Q. And the last patrol you sent out was when?—A. About 10.

Q. And, as I understand from your testimony before, Captain—I am just giving it from memory, now—A. Yes, sir.

Q. Those patrols all reported to you that everything was quiet in town?—A. Yes, sir; they did.

Q. And how many men were sent out in each patrol, excepting the one that was sent to the ferry?—A. All the other patrols consisted of a corporal, or a noncommissioned officer, and two privates; but they both happened to be corporals.

Q. And you sent those patrols down into the town to go all over to see if there were any of your men out?—A. Yes, sir.

Q. That was the purpose of it?—A. Yes, sir.

Q. And to order them into the barracks?—A. Yes, sir.

Q. And all of them reported to you that everything was quiet in the town?—A. Yes, sir.

Q. If you had not believed that everything was quiet in the town, if there had been any indications of any trouble, you certainly would not have gone to bed, would you, Captain?—A. No, sir.

Senator WARNER. I think that is all.

By Senator FORAKER:

Q. You spoke about changing your opinion. Do you remain of the same opinion that you expressed when you were last on the stand?—A. I do, sir. I really believe more than ever that the men did not do the shooting.

Q. That is all on that point. You said in answer to one of the questions of Senator Warner that you knew of the Evans incident some time that evening. Did you know of it at the time you were in the Crixell saloon?—A. No, sir; I did not.

Q. Can you tell us about what time in the evening you first heard of it?—A. It was between 5.30 and 6 o'clock when Major Penrose came to me and told me of the incident and directed me to send out the patrols, and also to notify the men that all passes had been recalled.

By Senator WARNER:

Q. Captain, as I understand, you have no remembrance of a conversation with Mr. Kleiber, in which you stated, in substance, that you were first awakened by a call about five minutes of 12, and got up and looked at your clock or watch, and then that a second call was made upon you? You have no remembrance of that?—A. No, sir. I have stated all along from the beginning that this was five minutes to 1. It was very much impressed on my mind, because I thought it was the call for reveille. I had notified the bugler of the guard to awaken me for reveille, and I was awakened and heard no confusion, but just the rapping, and I got up and lit my light and walked around and looked at the clock, and I thought that I must have been dreaming.

By Senator FORAKER:

Q. In view of some testimony that has been given, I want you to state again just where you found the shells you found and brought in. Senator WARNER. He has stated that.

Senator FORAKER. There has been a specific statement about it since.

A. Do you wish me to point it out again?

By Senator FORAKER:

Q. Yes; state again just where you found those shells.—A. I came down here about the middle of the barracks of D Company.

Q. That is D barracks?—A. Yes, sir; this is D barracks. I came down this far [indicating], and walked up there, and about there is where I found them [indicating].

Q. Outside of the wall, in the mouth of the alley?—A. Yes, sir; outside of the wall. This building should be over a little farther [indicating], and there is a little outbuilding right about there [indicating].

Q. At any rate, you found them in the mouth of the alley!—A. Yes, sir.

By Senator OVERMAN:

Q. Where is the oil house?—A. The oil house is in a position about like that [indicating]. It is on the right of this little outbuilding that is out there, probably 20—15 yards apart, I suppose they are. They are both about the same distance from the wall.

By Senator FORAKER:

Q. And you do not wish to change your statement as to either the place at which you found them or the fact that they were in a bunch?—A. No, sir; I do not wish to change it at all.

Q. Your statement as last given you want to stand, without modification?—A. Yes, sir.

Senator FORAKER. That is all.

By Senator TALIAFERRO:

Q. Captain, did you state that you found these shells in a bunch to Major Penrose, when you handed them to him that night?—A. No, sir; it was not until some time afterwards. I do not know just how long afterwards, but I did not tell him that, that morning, when I picked up the shells. You mean when I reported to him?

Q. Yes. What statement did you make to him when you stated you found the shells?—A. I said: "Major, I found these shells and clips right outside the wall, here," and I have forgotten where Major Penrose was. He was on the inside of the wall, but near me, and I talked to him right over the wall.

By Senator FORAKER:

Q. Did you make any search for shells inside of the wall, or as to whether any were inside of the wall?—A. Yes, sir; I had gone inside the wall, but did not see any in there at all.

Q. Very well.—A. I was up and down that space behind the barracks all the morning, you know, from before daylight until long after daylight, but I did not see any shells there at all.

By Senator TALIAFERRO:

Q. Did it occur to you, when you found these shells in this small area, that there was anything suspicious about that fact?—A. No, sir; it did not at that time.

Q. When did that idea occur to you?—A. Well, I don't know. I think I told Colonel Lovering about it, and General Garlington.

Q. I am not speaking of whom you told. I want to know when the suspicion first came over your mind.—A. That was early last fall, sir; early last fall.

Q. Why at that late day?—A. It was not but a very short time afterwards. When this investigation went on so thoroughly, and no results came from it, it seemed to me rather strange that they should have been in a position of that kind. The morning of August 14 we were all in a very much excited state, and I really did not give the thing very much thought at all. How soon afterwards, I do not remember.

Q. Did you not feel that in handing these shells to Major Penrose you ought to have stated the circumstances under which you found them, just how you found them?—A. Perhaps I should have done so.

Q. What?—A. I feel now that I should have done so.

Q. You say, I understand, that you were out looking for shells and picking them up as you found them?—A. Yes, sir.

Q. And while at the alley—looking up the alley—you saw some people coming down towards you?—A. No, sir; I did not say that.

Q. You did not?—A. No, sir. If I did, I was misunderstood. They were standing up there.

Q. They were standing up the alley?—A. They were standing up there at the corner of Thirteenth and Washington streets, I think, as nearly as I can remember. There was no one nearer—I don't think there was anyone nearer than Thirteenth and Washington.

Q. You could not see them from the mouth of the alley, if they were at the corner of Thirteenth and Washington?—A. Yes, sir.

Senator WARNER. You mean at the mouth of the alley and Thirteenth street.

The WITNESS. I beg your pardon; Thirteenth and the alley, I should have said.

By Senator TALIAFERRO:

Q. At Thirteenth street and the alley?—A. Yes, sir.

Q. That was practically two blocks away?—A. Yes, sir; they are very short blocks.

Q. And you say you put your foot on this shell and concealed it in the sand because you saw these people up the alley?—A. I said so; yes, sir.

Q. Why did you do that, Captain?—A. I don't know, Senator.

Q. When you were out looking for shells and saw a shell lying there before you, why should you have attempted to conceal it instead of picking it up as you had the others?—A. I felt that I had enough shells to show to Major Penrose without picking up the other. I had a whole handful at that time; that is, I had the shells and the clips, which just about filled my hands.

Q. Have you assigned as a reason for not picking up that particular shell, that you saw these people standing up the alley?—A. Yes, sir; I think I did.

Q. Well, then, the reason that you give now, that you thought you had shells enough, was not the real reason for not picking up that shell?—A. No, sir; the real reason was I did not care to have them see me pick it up.

Q. Why not, Captain? What was there to conceal about it?—A. Well, I don't know. The mayor said that the people were very much excited, and I did not care to have them know that we had gotten that evidence, because I knew it would come out sooner or later to the commanding officer and to the general public.

Q. Do you mean by that that if there were any evidence that your men had done this shooting, you did not care for the citizens to know it?—A. No, sir; I do not mean to express that at all, but you must understand that these people were in a very much inflamed condition, an excited condition, and I did not want to see any mob come up there, either for their sakes or ours.

Q. Well, I am trying to ascertain from you, Captain, if I can, for the benefit of the committee, just what your reason was for concealing a shell in the sand when you state that you were out looking for shells and picking up what you found?—A. Well, I can not give you any reason, sir.

By Senator TALIAFERRO:

Q. You think there must have been some reason, do you not?—A. I think there should have been; yes, sir; but I can not give you any reason now. I do not know why it was done. It was not to hide any guilty people, I can assure you of that, or to keep back anything from anybody that ought to know it, and I have endeavored to give out everything that I possibly could in every way; but I can not give you the reason why I did it.

Q. You covered that shell up thoroughly, did you; you covered it up?—A. No, sir; I think I just trod on it.

Q. And is that a sandy spot?—A. It was down near the Rio Grande River. The soil is quite sandy.

Q. When you stepped on it, did it bury the shell?—A. I do not know, sir.

Q. You did not pick that shell up afterwards?—A. No, sir; I never did.

Q. Were you in command of Company D?—A. C.

Q. C?—A. Yes, sir.

Q. You do not know anything about the empty shells that were brought down from Niobrara?—A. No, sir; I brought none down. I do not know anything about it.

Q. That was Company D?—A. Yes, sir; I think so. I have read so in the testimony.

By Senator OVERMAN:

Q. Have you any suspicion what became of those shells that you had, as to how they got out of your desk?—A. They did not get out of my desk, so far as I know; I left them there in the house.

Q. What did you do with the desk?—A. It was not my own personal desk. This was a quartermaster's desk. That desk, on the abandonment of Fort Brown, was shipped away somewhere else. The morning we left Fort Brown that desk remained in my house, and Lieutenant Rich, of the Twenty-sixth Infantry, took all

the property that I had in there on a memorandum receipt. I had this property on a memorandum receipt from the Quartermaster's department, as I had not yet opened my own stuff there.

Q. Did you see these shells in there afterwards?—A. They were in there the next evening, but I did not see them afterwards. I did not look for them again at all. I believe that if we could find that desk the shells would be there yet, unless the person, the keeper of the desk, has taken them out; unless Lieutenant Rich himself took them out.

By Senator BULKELEY:

Q. Where was that desk sent?—A. I do not know, sir. I could not find out. I tried to find out when I was in San Antonio, and I could not find out.

Q. It was not sent to Fort Sam Houston, so far as you know?—A. No, sir; I think not. It was sent to one of the other posts. It was a desk with a slanting top to it, and the upper part like that [indicating]. It was not a private desk.

By Senator WARNER:

Q. Just one question more., I find this in your testimony in the court-martial proceedings, at page 962, and I call your attention to it, and see if you want to make any corrections in it:

Q. Now, with reference to the time you picked up the shells, the clips, and the cartridge on the morning of August 14, can you state definitely, or even approximately, what hour of the day it was?—A. No; I can't. That was seven months ago to-day; I do not recollect the time.

Is that correct?—A. That is the answer I gave at that time; yes, sir.

Q. Do you desire to change it now?—A. Well, I can say that the hour was between 5 and 5.30; just as soon as it was daylight enough to see.

Q. What has there been in the intervening months since the court-martial that impresses your memory?—A. Nothing, except that I know it was before reveille, and reveille was at 5.30.

Q. You knew that at the time you testified before the court-martial?—A. Yes, sir.

Q. I will read you further from this testimony:

Q. Did you show those shells to the commanding officer when you returned?—A. I did.

That is correct, is it?—A. Yes, sir.

Q. (Reading:)

Q. What did he say when you showed them to him?—A. I don't recall that, either.

Is that correct?—A. Yes; that is the way I answered it.

Q. (Reading:)

Q. Did he say anything that would indicate to you a contention or belief on his part that the soldiers must, at least, have had a part in the shooting?—A. No; he did not.

Is that correct?—A. Yes, sir; that is my answer.

Q. You do not wish to correct that?—A. I will let my answer stand just the way it is, sir.

By Senator OVERMAN:

Q. Captain, had you taken any beer that day?—A. On the night of August 13?

Q. Yes.—A. Yes, sir.

Q. What time of the night were you drinking beer?—A. Mr. Lawrason and I had a bottle of beer just previous to 11, before I went out to check roll call.

Q. Where did you get it?—A. I had it in my house.

Q. Had it been brought to you by anybody?—A. No, sir.

Q. How long had it been there?—A. I could not tell you, sir; I had a case of it, or a barrel of it, in there.

Q. A barrel of beer?—A. Yes, sir.

Q. Who was the man that waited on you?—A. Myself—nobody.

Q. You had no colored soldier there to wait on you?—A. No, sir; my man stayed in the quarters. I had a little ice box out there, and occasionally some one would drop in. I messed right there in the house—had my meals brought over.

Q. You drank one bottle of beer?—A. Yes, sir.

Q. Had you drank any more?—A. One bottle; that is all.

Q. You had had some gin fizzes?—A. One gin fizz, early in the morning.

By Senator FORAKER:

Q. There is one other question that Senator Warner did not read you that I want to read you and see if that is all right, also. It immediately follows what he read:

Q. Can you recollect nothing whatever of the conversation that you and he had after you turned over those shells to him?—A. I didn't say that I turned over the shells to him.

Q. Or rather showed him the shells?—A. No; I do not. There were so many events that occurred then, and I can't recall all of them, and I did what I considered my duty in showing him the shells, and I don't recall his expressing his opinion to me.

Q. Did you express yours to him at the time?—A. I did not.

That also is correct, is it?—A. Yes, sir.

By Senator TALIAFERRO:

Q. It is correct, also, is it not, Captain, that you now say that when you showed Major Penrose the shells he said it looked very much like some of the soliders did the shooting?—A. To the best of my recollection; yes, sir.

By Senator FORAKER:

Q. Did you at the court-martial undertake to keep back anything that you recalled at the time?—A. You mean my own court, sir?

Q. Yes. Did you answer truthfully, or were you trying to withhold anything?—A. Both my counsel and myself agreed in the very beginning that we did not want to withhold anything; that everything that had been done on August 13 by myself, up to the time I reported to Major Penrose, was open and above board. I had nothing whatever to hide, and I wanted it to go out to the public. I believe that I personally have suffered more than any other officer in this affair, and I had a good record—I have always had a good record, and tried to keep it clear—and I wanted it to go out to the public at large; and to that end we brought out every single thing that could possibly be brought out. I would like to add there, in addition to

that, that this additional charge was brought out against me, being in Mr. Crixell's saloon, and at the instigation of the Secretary of War he ordered that charge withdrawn, and said it was never the intention of the Department to ever put it in, and that the charge could not be proved. I did not see the personal letter, but I have had that information by word of mouth.

By Senator TALIAFERRO:

Q. Where were you assaulted, Captain?—A. I was shot in the left temple, here [indicating].

Q. At what place?—A. At Fort Reno.

Q. By a colored soldier?—A. Yes, sir; a man who has been convicted for it since.

Q. Was he a member of the Twenty-fifth Regiment?—A. Yes, sir; he belonged to Company A of the Twenty-fifth Infantry.

Q. You said you were in doubt as to whether robbery or assassination was the object of that assault?

Senator WARNER. I do not understand that he said he was in doubt. He said he believed it was assassination.

Senator TALIAFERRO. Yes.

By Senator TALIAFERRO:

Q. Did you assert your views as expressed about the Brownsville shooting with this effort to assassinate you in your own mind?—

A. No, sir; I did not. I had, so far as I know, no particular enemies. I think I am a strict disciplinarian, and it may have been some other occurrence, but I do not believe it could have had any connection with the Brownsville affair. If it did, I am not able to state, because my whole thought on the matter would be a theory; anything I told you about it would be a theory.

Q. Do you know of any other circumstance that could have prompted this man to assault you?—A. No, sir. As I told you before, so far as I know, I had never seen the man before until the day that I saw him in the post hospital when we tried the coat on him.

Q. In all your experience as a commanding officer, do you recall any circumstance that would be likely to prompt one of the men to assault you and attempt to kill you?—A. No, sir; I have lived in the Army now for thirty-eight years, and I have never heard of such a case, and older officers tell me that they never heard of anything like that before.

Q. You had expressed yourself at that time as believing that the negroes participated in this shooting up of Brownsville, had you not?—A. Well, if the Senator recalls this, in one of the documents, I believe by Mr. Gilchrist Stewart, says that I stated I believed that the soldiers undoubtedly did the shooting. Just what document it is in I do not know, but I made that statement to him.

Q. You did make that statement to him?—A. I said that on finding the shells on the morning of the 14th I felt convinced that they had done the shooting. That statement was made at Fort Reno some time last fall; I do not know when.

Q. Who is Mr. Gilchrist Stewart?—A. I do not know, sir; I have heard of him and met him, and I understand he is a representative of the Constitutional League.

Q. What is the Constitutional League, this organization in New York?—A. I do not know, sir; I have not the faintest idea.

Q. Is this man Stewart a white man or a colored man?—A. He is a colored man.

Q. You made the statement, and of course when making the statement that you believed they were guilty, at that time you believed it?—A. At that time I did, most certainly; yes, sir.

Q. Had you expressed any changed view before this assault was made on you at Fort Reno?—A. I think I did, among my own officers; not to any outsiders that I recall. But from the time they started the discharge of the men, in November, up until the time I was assaulted, was about a month, you know, and then I had very frequent conversations in regard to the matter, and it is possible that I did say that to some of my brother officers. I do not recall that I ever did to any outsiders.

Q. You think you did not give expression to the fact that your views were undergoing a change on the subject, to the men?—A. To the soldiers themselves?

Q. Yes.—A. No, sir; I do not have conversation with any of the soldiers in regard to anything. I do not recall that I have ever had any conversation with them with regard to the Brownsville affray, except to try to get the noncommissioned officers to work to their utmost to the end of finding out who the guilty parties were.

Q. I suppose the men were more or less disappointed that their officers had concluded that in their opinions they were connected with this shooting at Brownsville?—A. I do not recall that I ever heard any expression of opinion on that.

Q. That would be a natural feeling, would it not?—A. It would be; but it would be unnatural for me to hear it. I would not have any opportunity to hear it.

Q. And that in itself would be as strong an incentive for one of these negro soldiers to attempt to do you bodily harm as anything else you know of in your experience with them?—A. Yes, sir.

By Senator FORAKER:

Q. What is the name of this soldier?—A. I can not give you his given name, Senator, but I can give you his surname.

Q. Knowles?—A. Yes, sir; Knowles.

Q. And he belonged to Company A?—A. Yes, sir; his name was E. T. Knowles.

Q. E. T. Knowles; and he did not belong to either of the companies that was stationed at Brownsville?—A. No, sir.

Q. His company was not there and he himself was never there?—A. No, sir.

Q. He himself was never charged with complicity in the shooting?—A. No, sir.

Q. And he had not been discharged without honor?—A. No, sir; he was still a soldier in the service of the regiment—in the Army.

Senator FORAKER. That is all.

(Witness excused.)

TESTIMONY OF SECOND LIEUT. GEORGE C. LAWRASON, U. S. ARMY—Recalled.

Senator SCOTT. Lieutenant, you have been sworn heretofore, and you will regard that oath as being binding upon you now?

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. Lieutenant, you testified before in this case. Since you testified a witness by the name of Joseph Crixell, a citizen of Brownsville, has testified that he was the keeper of a saloon at that place in August, 1906, and that on the 13th day of August, in the afternoon, not earlier in the day than 1 o'clock, and not later than 4 o'clock, you and Captain Lyon and Captain Macklin came into his saloon, and that some conversation, which he narrated, occurred there; that you were in there for the purpose of getting three gin fizzes. I will ask you first whether or not you remember being in that saloon at that time?—A. Not at that time, sir.

Q. Were you there on that day; and if so, at what hour in the day?—A. Yes, sir; I was there in the morning of that day, in the neighborhood of 10 a. m.

Q. How are you able to fix the hour?—A. Because it was just after returning from a practice march—our weekly practice march—and we started out before 6 o'clock and returned in about four hours from that time.

Q. You had your company—Company B—out on a practice march?—A. Yes, sir.

Q. Do you remember that Captain Lyon was there when you were?—A. Yes, sir; Captain Lyon was there at the same time.

Q. State whether he was also out with his company, D, on a practice march that day.—A. Yes, sir.

Q. Mr. Crixell testified that Albert W. Billingsley, a citizen of Brownsville, or a citizen residing near there, was also in the saloon at the time. Did you know Mr. Billingsley?—A. No, sir; I do not know him.

Q. Mr. Billingsley testified that he furnished milk and cream and butter and dairy products to the officers of the post. My recollection is that he mentioned you as one of the officers whom he supplied. Does that enable you to recall him?—A. No, sir; I never bought any eggs or butter. I took my meals in town, and did not keep house.

Q. He testified that you and Captain Macklin and Captain Lyon were in the saloon, that you were near one end of a long counter, and that he went in and went to the other end of the counter, and called Mr. Crixell to him, and had some conversation with him. Does that enable you to recall it?—A. No, sir; I do not recollect seeing him at all.

Q. Do you remember hearing anyone in the saloon, while you were there, remark that neither the soldiers nor the officers of the soldiers should be allowed to come into the town unless something was done about the Evans affair?—A. No, sir; I am sure I heard no such remark.

Q. Was there any conversation between you three officers and Mr. Crixell on that occasion about the Evans affair?—A. No, sir; I am

pretty sure that there was no conversation relating to the Evans affair between us and Mr. Crixell at that time.

Q. Had you at that time heard of the Evans incident?—A. No, sir; I heard of it at lunch.

Q. You heard of it when?—A. When I went to lunch in Brownsville, about half past 12 or 1 o'clock.

Q. At what place did you take lunch?—A. At Mrs. Leahy's hotel.

Q. And you heard it there for the first time?—A. Yes, sir; that is my recollection.

Q. And that was after you had been in Mr. Crixell's saloon?—A. Yes, sir.

Q. Mr. Crixell testified that after Mr. Billingsley made that remark, he went out of the saloon, and Mr. Crixell then turned and went to where the three officers were standing, and that Captain Macklin said as follows. I will read you this:

He says, "Joe, have you ever heard anything about a nigger being hit over the head with a six-shooter around here lately?" I said, "Yes; I heard a little about it." He said, "Have you heard the particulars about it?" I said the only thing I heard was that Mr. Tate, this customs officer, hit a nigger over the head with a six-shooter because this nigger would not give the sidewalk to some ladies.

Senator FORAKER. Speak a little louder.

A. (Continuing.) I told them that I had heard about the nigger being hit over the head with a six-shooter, and he asked me if I had heard any of the particulars, and I told him that I had heard that Mr. Tate had hit this nigger over the head with a six-shooter because the nigger had pushed his wife, or some other lady that was with him, off of the sidewalk, or something like it. Captain Macklin told me then, he says, "Yes; that is what they claim, but," he says, "Major Penrose and myself have investigated this thing thoroughly, and we have found out that these negro soldiers have been imposed on by the citizens and Federal officers of this town," he says, "and this thing has got to be stopped." He says, "Now, Joe, suppose these niggers would jump that barracks fence and shoot this damn town up any of these nights." He says, "We could not prevent it."

Did you hear any such conversation as that?—A. No, sir.

Q. Did Captain Macklin make that statement, or anything similar to it, on that occasion?—A. He certainly did not on that occasion, where I could hear him, because I would remember such a conversation as that.

Q. Were you present with him, near enough to him, all the time you were in that saloon on that occasion, to have heard any such remark as that, if he had made it?—A. I believe I was, sir.

Q. Did you hear any such conversation on the part of Mr. Crixell as he says he indulged in?—A. No, sir; I did not.

Q. You simply were in there, as I understand it, to get three gin fizzes, one each, and you got them and then went out?—A. Yes, sir.

By Senator OVERMAN:

Q. Did you get three?—A. One apiece, sir.

By Senator FORAKER:

Q. That is all on that point. Now, Lieutenant, can you recall any incident that happened the night of the 13th, after the firing commenced, that would enable you to give us, by relating it, an idea of how dark it was? What difficulty did you have, if any, in recognizing men or objects?—A. I recollect it was a dark, starlight night—that is, there was no moon; the only light was starlight—there were no

clouds in the sky, though—and I came quite close to several men without recognizing them. I remember I passed a man who had been sent over to my quarters to awaken me, as I went out. I ran past him, and he recognized me, I suppose; I did not recognize him, and he called after me when I had passed, and I turned back and he gave me his message.

Q. How close were you when you passed without recognition?—

A. I believe we were inside of 6 feet, sir.

Q. Six feet?—A. I believe about 4 or 5 feet away.

Q. Do you recall any other instance similar to that that would show the difficulty you had in recognizing men or objects?—A. No particular instance, sir. I recollect that I had some difficulty in recognizing some of the men when posting them around, and some of the noncommissioned officers when posting reliefs.

Q. It was so dark, in other words, if I understand you, that you had to be close to a man to recognize him?—A. Yes, sir; go by his voice and general appearance. I knew most of the men.

Q. How far away could you tell whether a man was a white man or a colored man, or as to what kind of clothing he was wearing, whether a uniform or some other kind of clothing?—A. I could tell whether he had on a uniform or civilian clothes, I believe, probably 12 or 15 feet away, and as to recognizing as to whether he was a white man or a colored man, if he was a very white man or a very dark colored man I might distinguish him, but a mulatto or a dark white man, I believe I would have to get within 5 or 6 feet to tell them apart, looking straight at them, or less than that.

Q. It has been testified since you were on the stand, by Mrs. Leahy, that the morning after the firing—that is, the morning of the 14th—between 5.30 and 6 o'clock in the morning, she passed from her house, at the corner of Elizabeth street and Fourteenth, up Fourteenth to the Cowen alley, as we have come to call it, and there turned to the right and went up to the garrison road, and there turned to the left and went on up to Jefferson street, and later returned, and that as she was passing out of the alley onto the garrison road she saw five or six men on the back porch of B barracks cleaning their guns, or doing something else with them which she took to be cleaning the guns. State, if you can, whether you were in that vicinity about that time, and whether or not, from your observations, any such incident as that could have occurred without your observing it.—A. Will you repeat the time, sir?

Q. Between 5.30 and 6 o'clock in the morning.—A. I was not there between 5.30 and 6 o'clock, I do not believe, in the rear of the barracks. I joined my company in front of the barracks in the neighborhood of 6 o'clock, but C Company was along the wall in the rear, and I was not in a position to see whether this happened or not.

Q. Reveille was sounded at what time that morning, if you recollect?—A. I do not recall now, sir. I believe that the first call for reveille went about fifteen minutes before sunrise, which would be about 5.45, I think. I do not remember, now, exactly what time, sir.

Q. You were not in that vicinity and you are not able to testify on that point?—A. No, sir.

Q. You have testified that the guns were put in the racks that night after the firing, under your supervision, and the racks locked up?—A. Yes, sir.

Senator WARNER. Let us not go into that.

Senator FORAKER. I do not want to go into it, except only on the one point.

By Senator FORAKER:

Q. Do you know whether or not the racks were opened that morning after reveille, after you joined the company? Have you any knowledge about that? I am asking for your personal knowledge about it. I do not know what you may know about that.—A. The racks were opened; yes, sir; for the men to get their rifles to turn out for that inspection.

Q. Have you any personal knowledge as to whether they had been opened in the meantime, up to that time?—A. No, sir; I have not.

Senator FORAKER. That is all.

By Senator WARNER:

Q. At the opening of the gun racks were you present?—A. No, sir.

Q. No. All you know about that is the fact that the men came down with their guns, and you supposed they had been in the gun racks all the time?—A. Yes, sir.

Q. That is all you know about that?—A. Yes, sir.

Q. This was a bright, starlight night?—A. Yes, sir.

Q. With no clouds?—A. Yes, sir.

Q. And in that latitude the starlight is quite bright, is it not? There were more stars to be seen than in our latitude?—A. Yes, sir.

By Senator OVERMAN:

Q. Is that so, that it is really brighter down there than it is here on a starlight night, in that latitude?—A. It may be a little brighter, yes, sir. That is, it seems to me you can see more stars.

Q. The starlight is what makes it bright, is it not, in the absence of clouds?—A. Yes, sir.

Q. And you see more stars there?—A. Yes, sir.

Q. You do not pretend to tell how far a person could see whether a man wore a uniform or not, on a night such as that was—a bright starlight night?—A. Except that I know that you can not see it unless you are very close.

Q. But when you did not recognize this party you were in consideration of a hurry, were you not, Lieutenant?—A. Yes, sir.

Q. The call to arms had been sounded?—A. Yes, sir.

Q. How long had you been in the service, Lieutenant?—A. How long have I been in the service now, sir?

Q. Had you at that time?—A. In the neighborhood of about eight years.

Q. Had you ever heard the call to arms sounded before?—A. Yes, sir; I had heard the call to arms sounded—never under such conditions though.

Q. Never under conditions that would create the same anxiety?—A. No, sir.

Q. The question as to whether you could determine whether they were white men or colored men, you say, would depend upon whether the man was white or colored?—A. Yes, sir.

Q. As to the moon; the only light was starlight, is it not; that is a

ter of opinion, without any actual observation?—A. No, sir; there has been some actual observation.

Q. By yourself?—A. Yes, sir.

Q. What was that?—A. Well, when at Fort McIntosh, in April I believe it was, I was talking to Lieutenant Wiegenstein about some experiments that he conducted, and he showed me himself, by walking across the road, how hard it was to distinguish men. I could not tell whether he was a white man or not.

Q. How far was he from you?—A. I suppose he was 7 feet.

Q. Do you want the committee to understand, Lieutenant, that on a bright, starlight night, with no clouds, if a man walked within 7 feet of you, that you could not tell whether he was a white man or a colored man?—A. Certain white men, yes, sir; a great many of them.

Q. Certain white men?—A. Yes, sir.

Q. State what you mean by that.—A. Well, I mean men like most officers, a man who has tanned a good deal.

Q. A man of my complexion?—A. Yes, sir; about your complexion.

By Senator OVERMAN:

Q. What sort of a complexion has Lieutenant Wiegenstein? Is he a dark man?—A. Yes, sir; he is tanned. He has black hair and he is rather dark.

Q. Dark skinned?—A. Yes, sir; I don't suppose he is much darker than I am.

By Senator WARNER:

Q. Not much darker than you?—A. No, sir.

By Senator SCOTT:

Q. Is he as dark as Senator Taliaferro?—A. Yes, sir; I think he is.

By Senator WARNER:

Q. So that if Senator Taliaferro and I were 7 feet from you, in a bright, starlight night, you could not tell whether we were white men or black men?—A. I am afraid I could not.

Q. You want the committee to understand that, do you?—A. Yes, sir.

Q. When you give a distance of 7 feet, do you mean to be understood as expressing an accurate opinion upon that?—A. I did not quite catch that.

Q. The 7 feet distance at which you could not distinguish a white man from a black man.—A. You want me to give what?

Q. You limit it to that distance, do you, but you could tell him, if he were 6 feet away, could you?—A. I think I could in some cases, sir. For instance, I would know he was not a very dark black-colored man, but I might confuse him with a light-colored man.

Q. That is the white man at 6 feet?—A. Yes, sir.

Q. How would it be about 5 feet?—A. I think I could generally tell at 5 feet.

Q. That you place as a limit, in a bright night, without any clouds?—A. From 5 to 7 feet.

By Senator FOG; under your supervision, and the

Q. How would it be at 20 feet, sir?

could not tell at

By Senator BULKELEY:

Q. Where you passed this man that you did not recognize, or he you, that was on the parade ground, was it?—A. Yes, sir; it was on the parade ground.

Q. And there was nothing on the parade ground to obstruct the view?—A. No, sir.

Q. It is all open—no trees?—A. No trees. We were going in opposite directions. I was going towards the company and he was going towards my quarters, and I passed him on the parade ground out on the grass.

Q. But you saw him?—A. I knew that a person was approaching me, or that I had run by somebody, but did not know who it was.

By Senator TALIAFERRO:

Q. Why didn't you inquire who it was, Lieutenant? The call to arms had been sounded?—A. Yes, sir.

Q. And you were hurrying down to your command?—A. Yes, sir.

Q. And realized that you passed a man on the parade ground within 6 feet?—A. Yes, sir.

Q. And did not take the trouble to inquire who he was?—A. Well, sir, he inquired first. I don't believe I would have inquired anyhow, though. I wanted to get to my company pretty badly.

Q. How did he inquire?—A. He wanted to know if that was Lieutenant Lawrason?

Q. So he recognized you, although you did not recognize him?—A. I am not sure that he recognized me, sir. He knew that he would either find me at my house or on the way to the quarters.

Q. You are sure that he called your name?—A. Yes, sir.

Q. What further assurance would you desire that he had recognized you?—A. Because my eyesight is pretty good, and I know that I did not recognize him.

Q. That circumstance at least demonstrated that within that distance he could recognize you?—A. Either recognize or guess who it was.

Q. Not only distinguish a white man from a colored man, but could recognize who you were as a white man?—A. No, sir; I do not believe that is the case.

Q. What is the case? What is your theory? How do you account for his calling your name?—A. I think if I had told him my name was Brown that he would have gone on to my quarters and looked in my bed for me.

Q. That would be natural?—A. Yes, sir.

By Senator SCOTT:

Q. Then, as you understand it, he simply called to you to know whether it was you or not—he did not recognize you?—A. That is correct, sir.

By Senator TALIAFERRO:

Q. Was it not your duty to know who was going across the parade ground at a time like that, when the call to arms had been sounded and the men were hurrying to their places?—A. Well, sir, I knew that messengers and orderlies might be being sent from the commanding officer, or from the companies, to awaken officers or carry messages, and I did not concern myself particularly about those persons,

because I wanted to get to my company. That was where I belonged at that moment.

Q. Evidently you did not concern yourself about this man?—

A. No, sir.

By Senator BULKELEY:

Q. Lieutenant, did not the inquiry which he made indicate to you that he did not recognize you?—A. It seemed so to me, sir. The impression that I have is—

Q. If he inquired if that was Lieutenant Lawrason, would not that very question indicate that he did not recognize you, and that he was trying to find out who it was?—A. It seemed so to me, sir. I do not recollect his exact words, but the impression I got at the time was that he yelled to know if that was Lieutenant Lawrason. We were going so fast that he did not have time to stop until he had gone several feet beyond me.

By Senator WARNER:

Q. What is your age, Lieutenant?—A. I am 27 and about six months, sir.

Q. You were graduated from West Point when?—A. In 1904.

Q. So when you gave your service you gave it including West Point, which is perfectly proper?—A. Yes, sir; and the Naval Academy.

TESTIMONY OF CAPT. SAMUEL P. LYON, U. S. ARMY—Recalled.

Capt. SAMUEL P. LYON, U. S. Army, a witness previously sworn, being recalled, testified as follows:

By Senator SCOTT:

Q. Captain Lyon, you have been sworn before, and you regard that oath as still binding upon you this morning?—A. Yes, sir.

By Senator FORAKER:

Q. You are still under oath?—A. Yes, sir.

Q. Captain, since you have testified a Mr. Joseph Crixell, a citizen of Brownsville and a saloon keeper there, has testified in this case, saying, among other things, that on the 13th day of August (between 2 and 4 o'clock he stated in one place, and in another place I think he says not earlier than 1 o'clock in the afternoon and not later than 4 o'clock) you and Captain Macklin and Lieutenant Lawrason came into his saloon, and that a conversation occurred there between him and you three officers, the nature of which I will state to you in a moment. Do you remember being in his saloon on that day?—A. Yes, sir.

Q. Can you tell at what hour of the day it was?—A. It was in the morning, somewhere in the neighborhood of 10 o'clock.

Q. How do you fix the time?—A. On that morning I had been on a practice march of 12 miles with my company. I left the post at 5.30 o'clock. The rate of marching is about 3 miles an hour. I made 12 miles. That consumed about four hours. I got back to the post at about half past 9. I had a certain inspection regarding the condition of the men's feet after this march, which we were required to make, and as soon as that was completed Mr. Lawrason

and I went down to this Crixell's saloon to get something cold to drink. On the way down we met Captain Macklin and he went with us, so that it must have been somewhere in the neighborhood of 10 o'clock.

Q. Were you in his saloon at any other hour during that day?—

A. At about 9 o'clock in the evening I was in there for a few minutes.

Q. What were you doing in there at 9 o'clock in the evening?—

A. Mr. Lawrason and I took a walk through a certain part of the town to just see if we could see any of the men on the streets who were ordered to be in by 8 o'clock.

Q. Did you take any drinks in the saloon at that time?—A. In the evening, sir?

Q. Yes.—A. I don't remember; I probably did.

Q. At this first visit at about 10 o'clock in the morning Mr. Crixell testified that Captain Macklin and Captain Lyon and Lieutenant Lawrason came in and asked for three gin fizzes. Is that correct or not? Is that what you ordered?—A. Yes, sir; that is right—one apiece.

Q. One apiece?

Senator WARNER. I suppose the usual order was "gin fizz?"

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. Did you order a gin fizz that night when you were there?—

A. I don't remember, sir.

Q. You have no recollection of that?—A. No, sir.

Q. At this time, he says, Captain Macklin said:

"Joe, have you ever heard anything about a nigger being hit over the head with a six-shooter around here lately?" I said, "Yes; I heard a little about it." He said, "Have you heard the particulars about it?" I said the only thing I heard was that Mr. Tate, this customs officer, hit a nigger over the head with a six-shooter because this nigger would not give the sidewalk to some ladies.

Then after repeating that, he said:

Captain Macklin told me then, he says, "Yes; that is what they claim, but" he says, "Major Penrose and myself have investigated this thing thoroughly, and we have found out that these negro soldiers have been imposed on by the citizens and Federal officers of this town," he says, "and this thing has got to be stopped." He says, "Now, Joe, suppose these niggers would jump that barracks fence and shoot this damn town up any of these nights." He says, "We could not prevent it."

Did you hear any conversation of that character?—A. No, sir.

Q. At either of those visits, either in the morning or at 9 o'clock in the evening?—A. Captain Macklin was not in there in the evening.

Q. He was not with you at night?—A. No, sir.

Q. You were not in the saloon at any time that day in company with Captain Macklin except at this hour of about 10 o'clock in the morning?—A. Yes, sir; that is correct.

Q. So that if Captain Macklin made any remark in that saloon in your presence, he must have made it about 10 o'clock in the morning?—A. Yes, sir.

Q. And you heard no such remark as I have read?—A. No, sir; nothing of the kind; nothing that could be construed—

Q. Did you hear anything at all of that nature or that kind?—A. I heard nothing that could be so construed.

Q. Now, he also testifies that a Mr. Billingsley was in there at the same time that you were in there, and that you stood near one end of the long counter and Mr. Billingsley at the other, and that Mr. Billingsley called him and asked him in a low tone of voice whether or not he had learned from you gentlemen whether anything was to be done about finding the man who was guilty of making the assault on Mrs. Evans, and that he told Mr. Billingsley that so far as he could make out nothing was doing in regard to it, and that thereupon Mr. Billingsley said: "At the rate these fellows are carrying on here I don't think that the soldiers or the officers either ought to be allowed in town if they don't do something to help assist us stop these men from conducting themselves the way they are acting in the city." Do you know this Mr. Billingsley?—A. I think I could recognize him again. I had certain transactions with him in the way of buying fresh vegetables.

Q. He testifies that he furnished dairy products to the officers.—He never did furnish anything to me personally, but I bought coffee from him for my company up to the time we left—within a day or two of the time we left there.

Q. Did you see him in the saloon when you were there at 10 o'clock the morning?—A. I do not recall his being there at all, sir.

Q. Did you see him when you were there in the evening?—A. No,

Q. Then, of course, if you did not see him, you do not remember hearing him make any remarks of any kind?—A. No, sir.

Q. Mr. Crixell testifies that after Billingsley went out he (Mr. Crixell) returned to where you were and that as he approached you Captain Macklin looked at him and smiled, and then he turned around and looked at Captain Lyon and said something low "that I could not hear, and he looked at me again, and he says, 'These fellows will surprise this fellow yet,' " referring to Mr. Billingsley, who had just walked out. Now, did you hear any remark of that kind made by Captain Macklin?—A. No, sir.

Q. Or by anybody else?—A. No, sir.

Q. Did either one of you make such a remark as is attributed to Captain Macklin on that occasion, or any other occasion when you were in his saloon or at any other place?—A. I never did myself, and I never heard either of the others.

Q. Had you ever up to that time thought of such a thing as the men jumping over the fence or going out in any way into the town, or shoot it up?—A. No, sir. At the time that we were in that saloon, it is, Captain Macklin, Mr. Lawrawson, and myself, I knew nothing about the alleged assault on Mrs. Evans, and I do not think that the others did either.

Q. You had started on this practice march in the morning, how early?—A. At half past 5.

Q. And you had just returned from it. You had not read the papers then, I suppose?—A. No, sir; I did not take the Brownsville paper.

Q. But if you did take it, you would not have read it before you went on your practice march about half past 5, probably?—A. No, sir.

Q. At any rate, you are distinct in your recollection that you had not heard of it at all at that time?—A. No, sir; I knew nothing of it at that time.

Q. You were not asked anything on that subject by Mr. Crixell?—A. No, sir.

Q. He did not tell you of it?—A. No, sir.

Q. Now, Captain, since you were on the stand, it has been testified that while you were marching through the streets, in command of your company, on patrol duty, you gave some orders which you had to repeat before your men would obey them. Without resorting to the record to get the exact language—I am only stating the effect of it—state whether or not anything of that kind occurred, any refusal to obey orders, evincing a lack of discipline, or anything of that kind on the part of your company?—A. The only thing that might be so construed by a person who did not understand the conditions, or what they meant, was when I met Mayor Combe on my way back to the post. Mayor Combe and I were at the head of the company, the company was in column, and three or four of the men rear found a man who walked off the sidewalk into the street, who had a rifle. They surrounded him and called for me, and said, “Captain, here is a man with a gun,” or words to that effect. Mayor Combe said, “That is one of my policemen.” He said this to me, and I called back, “That is a policeman; turn him loose and fall in.” They said, “But, Captain, he has a gun,” and I ordered them again to fall in ranks, that that man was authorized to have a gun. That is the only incident that could be construed as a failure to obey promptly any orders of mine.

Q. State, as a matter of fact, whether your company was in a state of good discipline.

Senator WARNER. I think that has all been gone over.

A. In my opinion it was, sir.

By Senator FORAKER:

Q. What was the record of your battalion in that respect up to the 13th of August?—A. I think that the reports of every inspector up to that time had been favorable to the battalion as a whole and the company individually.

Q. Can you tell us what has been the conduct of the men who were discharged, who went from that battalion, since the time of their discharge—do you know?—A. In all the cases of which I have any knowledge the men have gone to work and behaved themselves properly.

Q. Can you give us any illustration—can you relate any incidents that came within your personal experience that night, or under your observation, that will enable us to judge how dark it was; I mean any incident that would indicate whether you had difficulty or otherwise in distinguishing persons or objects?—A. I remember that after the company was formed Major Penrose called over to me and asked me if my company was formed. I said that it was. He came over from the direction of B Company barracks—my company—and he had to get very close to me, then, before I could see who it was. Also, in calling the roll I had to use a lantern when the men were behind that wall in order to distinguish who each man was.

Q. Can you tell us how far away, without the aid of any artificial light, you could distinguish whether men were white men or colored men?—A. I should think about 10 feet would be the maximum.

Q. At what distance could you distinguish whether they were clothed in uniforms or other kind of clothes?—A. Of course this is only my opinion—

Q. Yes.—A. I should say about the same distance.

Q. Do you think you could have told whether a man was a white man or a black man, or whether he was in uniform or citizen's clothing, at a distance of 25 or 30 feet away?—A. I do not, sir.

Q. Now, did you have any man in your company who had spots on his face to such an extent that they were at all noticeable, so far as you can recall?—A. No, sir; I do not recall any such man.

Q. It has been testified by Mrs. Leahy that she looked out of her window and saw two men in the alley, one a dark colored soldier and the other a mulatto, and that the mulatto had spots on his face which she could distinguish him by, looking out from her window to the point where he stood, and that when your company returned from the patrol she was standing at her gate, and she saw this same man in the ranks and recognized him by these same spots. Did you have any man—since I have thus refreshed your recollection about it—can you recollect anybody that could have answered to any such description as that, even if it had been daytime, to say nothing about the darkness of the night?—A. Mrs Leahy told me in San Antonio about seeing a man in my company, when I returned, whom she recognized as one of the men who did the shooting, but then she told me that this was a tall, very black man.

Q. A tall, very black man?—A. Yes, sir.

Q. Did not tell you she saw a man with spots on his face?—A. No, sir.

Q. Did she describe him in such a way that you could recognize him as a man belonging to your company?—A. No, sir; nothing but a tall black man.

By Senator SCOTT:

Q. Captain, why didn't you have Mrs. Leahy go to your company and pick the man out?—A. When was that, sir?

Q. When she said she could pick him out, why didn't you have her do it?—A. I had nothing to do with that investigation, sir, and I never heard this reported by Mrs. Leahy until after I had gone down to San Antonio on the court-martial duty.

Senator WARNER. The men had been discharged.

By Senator FORAKER:

Q. The men had been discharged and scattered. Well, Captain, has anything come to your knowledge since you were on the stand that leads you to have a suspicion that any man in your company participated in that firing?—A. No, sir.

Q. Have you changed the opinion that you expressed when you were last here that none of the men in the battalion did do the shooting?—A. I have not, sir.

Q. You still remain of that opinion. Now, I want you, Captain, to look at these two rifles that General Crozier had here. General Crozier testified the other day, and exhibited two rifles in connection with his testimony. He told us that each of these rifles had been fired five times. They are Springfield rifles such as are now in the hands of

our soldiers, as I understand it. He told us that one of those rifles he caused to be cleaned by running a thong brush through it, and that the other has not been cleaned. I wish you would examine those rifles. Perhaps you will have to remove the bolt. I wish you would look through those rifles and tell us what condition they are in.—A. (Examining one of the rifles.) That one is dirty.

Q. This one is dirty. Now, look at the number of that and read it.—A. No. 198263.

Q. Now examine the other.—A. (After examining the other rifle.) This is also dirty, but looks as though there might have been a careless attempt to remove some of the dirt.

Q. On that one you think they may have made some careless attempt to remove the dirt?—A. They may have.

Q. Give us the number of that one.—A. The rifle is dirty. This is No. 245484.

Q. I wish you would look at them again carefully, and compare them after a second look, and tell us whether there is any difference in their apparent condition as to being clean or otherwise, and if any difference, which is the cleaner of the two rifles.—A. That looks like it was more foul than this one.

By Senator OVERMAN :

Q. What one is more foul?—A. No. 198263.

By Senator FORAKER :

Q. You think that is more foul than the other?—A. It looks to me so.

Q. Would you, Captain, as an inspecting officer, pass either one of those guns on inspection?—A. No, sir.

Q. In the condition in which you now find them?—A. No, sir.

By Senator OVERMAN :

Q. Isn't it a fact that a gun may pass inspection, say an hour after cleaning, that would not pass inspection a week after?—A. I have heard that theory advanced, sir; but I have no personal knowledge of that. I never made that experiment.

Q. That is generally believed to be so, isn't it?—A. Well, I don't know about that.

Q. So contended for by army officers and men in the regiments?—A. I don't know, sir; I have just heard the theory advanced.

Q. It has been testified here by a soldier.—A. Yes, sir. Well, it may be correct.

Q. That he could clean his gun and examine it a week after and it would not pass inspection; that he would clean it again, and sometimes clean it four times before it would pass a critical examination?—A. Yes, sir.

Q. You do not know anything about that?—A. No, sir.

By Senator FORAKER :

Q. Would either of those guns have passed the inspection to which the guns of your company were subjected on the morning after this firing?—A. No, sir.

Q. You have been asked whether guns may not be cleaned so as to pass inspection, and then after they have stood for a while become apparently foul by reason, as the expression has been used, of the

powder creeping up. I will ask you whether or not either of these guns appears to have been thoroughly cleaned since they were fired?—
A. No, sir.

Q. And I will ask you whether or not the powder will "creep up" after a gun has been thoroughly cleaned, with the use of sal soda and ag, in the way that the men generally clean their guns?—A. I have no personal knowledge of that, sir. I have heard that theory advanced, but I never cleaned one of these rifles myself and I do not now.

By Senator OVERMAN:

Q. Captain, do I understand you to want the committee to believe that neither one of those guns would have passed inspection? It has been stated that one of them was cleaned two hours after it was fired.—A. I do not know what condition it was in two hours after it was cleaned. They are not clean now.

Q. And it has never been fired since. What you mean to say is that they would not pass inspection the way they look to you now?—
A. Yes, sir.

Q. You do not know whether they would have passed inspection immediately after they were cleaned or not, do you?—A. I only know, sir, that now they would not pass inspection. What any previous condition of the gun was I do not know.

Q. Of course you could not tell that.

By Senator FORAKER:

Q. So far as you could judge, neither one of these guns has been cleaned since it was fired?—A. They have not that appearance to me, sir.

Q. I will ask what your experience and observation have been as to the use of this thong brush for cleaning rifles that have been fired, and whether or not that is a satisfactory way of cleaning them, just by the use of the brush?—A. As I said, I have never cleaned one of these rifles myself, but there has been complaint made by the men that the thong brush wiper does not act satisfactorily in cleaning the guns.

By Senator OVERMAN:

Q. There has been no fire in this room. It has been very damp here. Could not these guns be filled with rust, and that have something to do with the question as to whether they would pass inspection or not?—A. Yes, sir; they may have rust in them.

Q. Could not that be the trouble with the gun that you say would not pass inspection? It has been standing here in this room for a week or two, and would not that be the trouble with the gun, rather than because it has not been cleaned?—A. The barrel, the bore, has an appearance which I do not think rust could give it, unless it had been the rust that had been permitted to accumulate—there is a fuzzy appearance in the barrel that does not come from ordinary rust.

Q. Do I understand you to say that that is not rust in there, that makes it foul?—A. No, sir; I do not say so. I say it has the appearance of being soiled by powder.

Q. Do you say that rifle No. 198263 has powder in there that makes it foul, or that it is rust?—A. I said that it looked to me a little more

foul than the other. I do not say that it is either powder or rust, but that it has the appearance to me of being due to powder.

Q. Might it not be rust? Might you not be mistaken in that?—

A. It is possible; I do not think so. This is merely a matter of opinion. I do not think it is rust.

Q. You say it might be rust, as I understand you?—A. It might be. Senator BULKELEY. He said he did not think it was.

By Senator OVERMAN:

Q. I understand he said he did not think so, but it might be rust.—

A. That is, I do not think it is.

By Senator FORAKER:

Q. Could it not be determined whether that was rust or powder by passing a clean white rag through the barrel?—A. I think so, sir.

Q. I wish you would do that for us, and let us see what is the matter with it.

Senator LODGE. You do not want to change the condition of the guns. They are to be used as tests, and you do not want to change their condition.

Senator BULKELEY. Did we not run a white rag through one of them here a few days ago?

Senator FORAKER. We did run a white rag through one of them.

Senator LODGE. Has a rag been run through them?

Senator FORAKER. Yes; a clean rag has been run through one.

Senator OVERMAN. We made the test before.

Senator FORAKER. I think the test was whether that gun was clean or not. If we had a clean white cloth we could pass it through here, and if it is not clean we can get it clean in time, I suppose, if we keep churning at it. You may go on with the cross-examination, and he can do that later.

By Senator WARNER:

Q. Captain, you have made a careful inspection of the two guns shown you, and you have expressed an opinion that one is more foul than the other—that is, dirty?—A. Yes, sir.

Q. You are quite clear on that, are you, Captain?—A. I am quite clear that it has the appearance to me of being more foul than the other.

Q. That is the only thing you can testify, on inspection, isn't it; that is, first, the appearance, and then afterwards, if you want to, you can test with a rag and all that?—A. Yes, sir.

Q. But you made this inspection of these guns?—A. Of these guns, yes; these two guns.

Q. Now, in the use of a thong brush upon two guns, each of which has been fired five times, and the thong brush applied for cleaning, in from two to five hours after the discharge, would the application of the thong brush make the gun more foul, the one than the other?—

A. Would the application of the thong brush make the gun more foul by passing it through?

Q. Yes.—A. As I have stated, sir, I have never myself used this thong brush wiper.

Q. What would be your opinion on that?—A. It does not seem to me that it would make it more foul. It does not seem logical.

Q. If it should be stated to you that General Crozier, the Chief of

nance of the United States Army, had these guns cleaned in his presence and inspected, one of them within the limitation of about ten to four hours after it was fired, and that it appeared clean, would that change your opinion any?—A. I don't think I quite understand that question, sir.

(The question was repeated.)—A. You want to know whether that would change my opinion as to whether these guns had been cleaned?

. Yes.—A. Since they had been fired?

. Yes; that is, one of them.—A. I should certainly accept the word of General Crozier.

. Well, I do not mean to put it as a matter of courtesy.—A. No; I mean that he is a man who should be able to judge of those things.

. There has been some evidence here of a gentleman, a soldier, who seemed to be an expert upon this question, and to have had some experience in the cleaning of rifles, or guns, that after cleaning a gun with the ramrod, with sal soda and the appliances ordinarily used, until it appeared clean, then after it had stood a few hours a day there would be the appearance of powder in the gun. What would you say to that, Captain?—A. I have heard that very advanced, as I stated before, but of my own personal knowledge I know nothing about it.

. You have no knowledge upon that question?—A. I never have used one of those rifles or experimented in any such way as you have described.

. So you say you have no knowledge upon that question?—Nothing but an opinion, sir.

. Is your opinion to the contrary of that?—A. No, sir; I have no ground upon which to base a contrary opinion.

. I assume that. Now, the night of the 13th of August was a bright, starlight night, with no moon, and without clouds, I believe, is that not?—A. There were no clouds. The stars were shining, but it was not a bright night.

. Were not the stars shining brightly?—A. No, sir; they were not brilliant.

. What was the matter with the stars?—A. I don't know, sir. I suppose it was due to the atmosphere.

. Well, there were no clouds?—A. I do not recall any clouds; no, sir.

. And the stars were shining?—A. You could see them; yes, sir.

. You give it as your opinion that you could not distinguish the difference between a white man and a black man at the distance of ten feet?—A. Of not over 10 feet. I think I said 10 feet as about the maximum.

. Did you ever make the experiment?—A. No, sir; I never have done any such experiment at all.

. If a truthful person, under oath, should state that he saw soldiers, recognized them by their color, whether they were white soldiers or colored soldiers, and by their uniforms as to whether they were citizens or soldiers, would that change your opinion, where it was made at from 25 to 35 feet?—A. Without any artificial light?

. Yes, without artificial light, if you please.—A. I would think that they were mistaken, sir.

. Although you never have made any test under like conditions?—

A. Not any tests, but I had a certain amount of experience that night. I know what kind of a night it was.

Q. You have stated all the experience you had that night, haven't you?—A. I don't think I have stated it all. I just mentioned a couple of incidents.

Q. Was there any other incident you want to mention, Captain?—A. No, sir; I don't recall any other just now.

Q. Then those are all the incidents you base your opinion upon—what you have narrated?—A. I have had a great deal of experience, especially in the Philippines, in moving men and handling men at night.

Q. I am asking you about that night, if you please, and then you can go on and make your explanation, or you can make it now, if you wish.

Senator FORAKER. Let him just finish the answer.

Senator WARNER. I have no objection at all.

The WITNESS. I know how much more difficult it is than it would seem to a person who has not had that experience to recognize, for instance, either their color or their clothing, or anything about them at night, without any artificial light and without moonlight.

Q. On a bright, moonlight night, at what distance could you distinguish the difference between a colored man and a white man without artificial light?—A. Well, I don't know as I can specify any distance. Of course you could distinguish them under those conditions at a much greater distance, especially if the colored man was of a dark type.

Q. Are you not just as competent to give an opinion on the question of distinguishing them by moonlight as you were to give an opinion as to distinguishing them or the distance at which you could distinguish them by starlight?—A. Well, it would seem like I ought to be, but on a moonlight night you do not have the trouble in handling your men and moving them about where you want them, and consequently your experiences under those conditions are not so apt to impress you as they are on a dark night. Just as a matter of opinion, I should say that on a moonlight night you could probably do it at 100 feet. I don't believe you could do it at over that, unless there was some very bright distinguishing mark, or something of that kind.

Q. And the uniform, how would that be?—A. The khaki uniform, even in the moonlight, is hardly distinguishable at 100 feet. A man is blotted out unless he has some special background.

Q. But 10 feet you place as the limit on a night such as this was?—A. In my opinion.

Q. At 7 feet you would have no trouble, would you?—A. I don't know, sir; I should think it could be done—

Q. I know, but we are getting opinions now, Captain?—A. Yes, sir; I should think it could be done at 7 feet.

Q. On the question of the repeating of orders, the only instance you have referred to, and I think that has been gone over. I will not go over it again. That was where your men fell out, on seeing this man having a gun, and when you gave them the order to fall into ranks.—A. That is the only instance that I recall, sir, at all.

Q. I think you went into that fully in your examination on the stand before.—A. Yes, sir.

By Senator OVERMAN :

Q. Would it not show a lack of discipline for men to step out of the ranks and arrest a man when the captain was present?—A. This was at the rear of the column, and I was at the head of the column.

Q. I understand.—A. No, sir; I do not think it could justly be called lack of discipline.

Q. You think when a man is in command of a company and the rear rank should step out and arrest a man without any orders at all from the commander that it would show no lack of discipline?—

A. The company had been halted from marching at the route step. They were not required to keep silence. They could stand at ease and they could converse. Under those circumstances I think the men acted in a manner that was perfectly proper.

Q. Suppose you were marching your company up Pennsylvania avenue, and I was going along, and the rear rank should step out and arrest me without any orders from you, would that show any lack of discipline?—A. The cases do not seem to me to be parallel.

Q. Would that show a lack of discipline, whether the case is parallel or not?—A. It certainly would.

Q. Everything was quiet at Brownsville when you passed along down the streets?—A. When we passed through the streets; yes, sir.

Q. What is the difference?—A. If there had been some unknown persons shooting up the capital, and I was sent out with my company to patrol the town, or this vicinity, and while my company was halted somewhere, or resting, and I was at the head, a man appeared at the rear with a gun, it would be perfectly proper for the men next to him—

Q. A policeman—a man in policeman's clothes—put it that way.—A. No; I am speaking of my own men.

Q. Was not this man who was arrested in policeman's clothes?—A. I don't know whether he was; I presume he was; had on a khaki uniform, I think.

By Senator TALIAFERRO :

Q. I should like to have you, Captain, go on and explain under what circumstances a soldier in the ranks is justified in leaving the ranks without an order from his commanding officer who is present.

Senator OVERMAN. That is what I am trying to get at.

A. Only in some certain special case, such as I am speaking of.

By Senator TALIAFERRO :

Q. Is he in any case authorized to leave his company?—A. Under those conditions, sir, I think they acted perfectly properly.

Q. And you had to repeat the order a second time, did you?—A. Yes, sir.

Q. Did that show a lack of discipline—having to repeat the order a second time?—A. Not to my mind. It merely indicated a desire on their part that I should thoroughly understand that they had a man there with a rifle.

By Senator BULKELEY :

Q. What was the object of sending a patrol out into the town?—A. Major Penrose, the commanding officer, directed me to take my company and go as a patrol to certain parts of the town. He wanted

to see if I would run across Captain Macklin anywhere, and also to get what information I could as to who had done this shooting. I think that was about the general instruction that he gave me.

Q. If you found men armed there without any knowledge as to who they were, you would think it was proper to arrest them wouldn't you?—A. He did not give me any orders.

Q. Under the circumstances, and what had been going on before?—A. I think it was.

By Senator OVERMAN:

Q. You think it was your duty to arrest them?—A. Yes, sir.

Q. Any citizen that was out there armed?—A. Unless he could explain why he was there in that vicinity with firearms.

Q. And that any man in your company would have that ~~say~~ right, without any orders?—A. No, sir.

Q. Those four men, or six men, or however many there were, they did not have the right to do it?—A. They knew the object of the patrol, naturally; they inferred it, and while they acted somewhat on their own initiative, still they were a part of my organization.

Q. You think that was a soldierly act then?—A. I think they did perfectly properly then, sir.

By Senator HEMENWAY:

Q. It was not customary for policemen to carry rifles, was it?—A. I don't think I ever saw one, sir, before that night, with a rifle.

Q. And there was no trouble about the release of this man after it was ascertained that he was a policeman?—A. None at all, sir.

By Senator TALIAFERRO:

Q. My interest is not in that direction at all. I wanted to know because I confess that I am interested in the subject—I wanted to know if a soldier in the ranks, under the command of an officer, on any account or under any circumstances, had the right to leave the ranks without an order from the commanding officer, or authority from the officer?—A. Theoretically he should not, but practically there are certain conditions, such as those at Brownsville, under which, in my opinion, he was perfectly justified. These men did not go away. They stepped out perhaps 4 or 5 feet just from the rear of the company and surrounded this man with the rifle.

Q. What was the distance between the head of the column and the rear?—A. Well, probably 30 or 40 feet, or something like that.

Q. Was there any trouble about the men calling out to the commanding officer, to you, that there was an armed man on the street?—A. As soon as they surrounded this man they did call out, sir; called for me and said that here was a man with a rifle.

Q. But ought not they to have called to you before they surrounded him, before they stepped out of the ranks?—A. I think they acted perfectly properly, sir. They did not know what this man was going to do, or how long he was going to stay there.

Q. And you think they were proper in not returning to the ranks when you ordered them in the first place to return, but remonstrated to you, stating that he was an armed man, and making it necessary for you to give a second order that they should return to the ranks?—A. It was not in the nature of a remonstrance. It was in the nature

an explanation, in order to be sure that I knew that the man whom had ordered them to turn loose had a rifle, before they did so.

Q. As a matter of fact, you ordered them back to the ranks?—
A. The mayor told me—he said, “That man is one of my policemen.”
I and I started then down to where the man was. I said, “You men
all in. That man is all right. Let him alone.” They said, “Cap-
tain, he has got a rifle,” and I said, “Never mind; fall in.”

Q. Making it necessary for you to give the second order?—A. Yes,
r.

Q. And you think that their failure to respect and act upon the
first order was no evidence of a want of discipline?—A. No, sir.

By Senator FORAKER:

Q. Is it not the duty of inferior officers, and even of enlisted men
in the ranks, when they are given an order, and are so situated with
respect to the commanding officer that they can acquaint him with a
fact that they may think is material, and that they think he is not
aware of, to give him knowledge of it?—A. Yes, sir.

Q. Is not that the case?—A. Yes, sir; it certainly is.

Q. And would it not have been a very unsoldierly performance on
the part of those men to have seen a man there with a gun, under
circumstances that indicated that he might possibly open fire on your
men and kill some of them, to have omitted taking steps to prevent it?
Would not that have been unsoldierly of itself on their part? In
other words, was it not their duty to do what they thought might be
necessary and proper to prevent the man from doing harm to your
command?—A. I think that was their duty, sir.

Q. And it was upon that theory, you say, that you think they acted
properly?—A. Yes, sir.

By Senator TALIAFERRO:

Q. Was this particular case ever considered by you—were you
court-martialed?—A. No, sir.

By Senator FORAKER:

Q. You have not been charged with shooting up the town?—
A. No, sir; I have not; not directly.

By Senator WARNER:

Q. There was one question which I wanted to ask, because of an
answer of yours. You were not sent up into the town to arrest any
citizens?—A. The commanding officer gave me no orders on that
point at all. I acted entirely on my own discretion.

Q. I am not criticising it; but you have been a soldier and I as-
sume that you know you had no authority over the citizens of Browns-
ville. But we will let that pass. I do not care to go into any dis-
cussion of that. What instructions were given to you by Major
Penrose?—A. To take my company and patrol a certain part of the
town and get what information I could regarding this disturbance,
and also to see if I could find anything about Captain Macklin.

Q. What did he tell you about Captain Macklin then?—A. I don't
know, sir, that he told me anything about Captain Macklin then. I
knew Captain Macklin was not present.

Q. Well, I was just asking you if he did tell you. Did he tell you

that they had sent for him at his quarters twice and could not find him, and that he was afraid Captain Macklin had been killed, or anything of that kind?—A. I do not recall that he did, sir, *exactly* that, at the time. I knew he was worried about Captain Macklin. Whether he told me then or had told me previously, I don't know.

By Senator FORAKER:

Q. There is one question I forgot to ask, but which is important. Mrs. Leahy testifies that on the morning of the 14th, the morning after the firing, between the hours of 5.30 o'clock and 6 o'clock, she left her home at the corner of Fourteenth and Elizabeth streets and went up Fourteenth street to the Cowen alley, turned to the right, and went up to the garrison road, and then turned up that road and pursued it to Seventeenth street.

Senator WARNER. Turned to the left.

By Senator FORAKER:

Q. I mean went to Jefferson street, turned to the left, and went up to Jefferson street, and that as she came out of the alley and turned up the garrison road [referring to the map]—this indicates the route she pursued—when she turned up the garrison road here at the mouth of the alley she saw five or six men on the upper rear gallery or porch of B barracks cleaning their guns, or doing something that she thought was the cleaning of guns; and she further testified that there was an officer standing between the gate and the lower end of B barracks, somewhere in there, and that that officer must have been either Major Penrose or Captain Lyon.

Senator WARNER. Major Penrose.

By Senator FORAKER:

Q. One or the other, she said it was.

Senator WARNER. Go ahead; it makes no difference. The printed evidence will show for itself.

By Senator FORAKER:

Q. Major Penrose or Captain Lyon, one or the other. State whether or not you were there at that time in the morning, and whether or not you were in the situation, at or about that time, to know what was going on on the rear porches of the barracks. B barracks particularly.—A. I don't think I went back where I could see the rear of B Company until after I had had the inspection of my company and inspected some men of B Company.

Q. So that if she saw an officer standing there it was not you?—A. No, sir; it was not I.

Q. And you think you were not in the rear of B barracks until after the inspection of arms, which would be later than 6 o'clock?—A. Yes, sir; I do not think I was.

By Senator LODGE:

Q. One of those rifles which you have looked at was cleaned, and I will read you what General Crozier says in his testimony:

Of these rifles I had one cleaned in the darkness, in a room where the light was absolutely excluded, and it was cleaned by drawing the brush which is provided for the purpose, by means of the thong, five times through the barrel, and that is all that was done, and that occupied just one minute.

By Senator OVERMAN :

Q. Was that cleaned sufficiently to pass inspection?—A. Well, it is here, sir; the rifle is here.

Q. Yes; but I am not an inspector of rifles, and you are. Could not you tell me?—A. I will state this about it: In looking through the rifle it is difficult to see whether it has been fired, but I am of the opinion, without having tried it with this particular rifle, that if we were to draw a clean rag through the rifle we would get a little mark on it. It would not come through absolutely clean; but, as far the appearance of it is concerned, I would not be able to say from looking through it that it had been fired.

By Senator LODGE:

Q. Who cleaned these rifles in your presence?—A. Captain Rice, of the Ordnance Department.

Q. He cleaned them all?—A. He cleaned these last ones I am speaking of.

General Crozier testified to that effect, as I have just read you. Is it fair to assume that one of those rifles was cleaner than the other at the time he testified that one was not cleaned at all?—A. I should think so, sir. It would seem to me perfectly fair to assume that one of the rifles was cleaner than the other.

Q. I mean that one was cleaner than the other after he had drawn the brush through it.—A. Yes, sir.

Q. Now, he stated, and Sergeant Levie, formerly of the Twenty-sixth and now of the Eighteenth Regiment, who seemed an extremely intelligent man, also testified, that a rifle which had been cleaned, even if it was cleaned, the sergeant said, with sal soda, and thoroughly, if allowed to stand for two or three days, would foul again. You say you have heard that theory, but that you have no personal knowledge of it?—A. Yes, sir.

Q. Now, as to these two rifles, you have looked through them and have said that in your opinion one was less foul than the other, or slightly less foul.—A. I said it seemed so.

Q. The one that seemed to you less foul than the other was the one that had never been cleaned at all?—A. Yes, sir.

Q. And the one that seemed to you the fouler was the one that had had the brush drawn through it five times. Does that seem to you to indicate that there is some truth in the statement of General Crozier and the sergeant that a gun left in that way will foul again?

Senator FORAKER. When did General Crozier say this?

Senator LODGE. He stated it to me, and I thought he so stated in his testimony. The sergeant certainly testified to that very fully. Now, I will have my question repeated.

The official reporter read the question as follows:

Q. And the one that seemed to you the fouler was the one that had had the brush drawn through it five times. Does that seem to you to indicate that there is some truth in the statement of General Crozier and the sergeant that a gun left in that way will foul again?

A. It would appear to be so—a gun that is not thoroughly clean. A gun that is thoroughly clean will keep clean.

Q. I will not go over the testimony of the sergeant that a gun had to be cleaned two or three times to keep it clean; that when cleaned it would foul again—that was his testimony.—A. That was because, although it might have looked clean, it was not clean.

By Senator TALIAFERRO:

Q. But a perfectly clean gun will rust.—A. I understood this fouling to refer to the effect of the powder in the bore. Digitized by Google

By Senator LODGE:

Q. I will state what I understood them to mean, that with this modern smokeless powder the dirt left in the barrel is not like the dirt left by the old charcoal powder; it is more in the nature of stains caused by the gases.—A. Yes, sir.

Q. And that after a gun has been once cleaned, those stains will reappear unless the gun has been cleaned with extraordinary thoroughness, or is cleaned a second time?—A. Yes, sir.

Q. That is what I understood General Crozier and the sergeant to mean by the reappearance of fouling in the barrel. They did not mean rust?—A. No, sir.

Q. But the reappearance of gas stains?—A. Yes, sir.

Q. Am I correct in supposing that is what you mean?—A. I should suppose that is what they mean, sir. I do not know. I never have cleaned one of these rifles. I actually do not know anything about it myself, what is difficult in cleaning them.

Q. You never have cleaned one of these rifles that was tested in that way?—A. No, sir.

By Senator FORAKER:

Q. The statement of General Crozier at page 2849, and as I understand not anywhere modified, as to this rifle through which he ran the thong brush five times, is as follows:

As far as the appearance of it is concerned, I would not be able to say, from looking through it, that it had been fired.

He was speaking of the condition of the gun as he presented it to this committee when he was a witness on the stand, and not as it appeared to him at the time when it was cleaned. Now, I understand your testimony to be that looking through that gun now it does have the appearance of having been fired and not cleaned?—A. Yes, sir.

Q. And so much that appearance that you would not think of passing it on inspection?—A. No, sir; I should certainly punish a man who brought a gun in that condition and presented it to me for inspection.

Q. And you made one remark in answer to Senator Lodge that I want to see if I properly understood it. I understood you to say that if a gun be thoroughly cleaned it will not foul up. That is true, is it not?—A. That is my opinion, sir. A gun that is thoroughly cleaned, and no powder gas is left to expand on it, or any of those things they attribute to that, it could not foul again of its own volition.

Q. That is to say, there will be nothing left in the gun to "creep up," to use the expression, if it be thoroughly cleaned?—A. Yes, sir.

By Senator OVERMAN:

Q. It might be cleaned with sal soda, in your opinion, so as to pass inspection, and after that become foul?—A. That is the theory that is advanced, sir. I know nothing about that myself.

By Senator FORAKER:

Q. But you do know that when a gun is thoroughly cleaned, it will retain all the appearance of being clean, do you not?—A. Unless it is permitted to rust, or something of that kind.

Q. I mean so far as powder stains are concerned.—A. Yes, sir.

Q. Sergeant Levie testified that it would stay clean or bright for six months.

By Senator BULKELEY:

Q. Suppose the rag had been drawn through one of these guns several times since they have been in the possession of the committee—don't know which one it was, but that is the fact, that it was done ere as an experiment—would not that make a difference in the condition, if it was used in the gun that was not cleaned; might it not possibly leave it in better condition than the other?

Senator WARNER. It was drawn through the one that was supposed to have been cleaned.

Senator BULKELEY. Through the one that was cleaned? . . .

Senator WARNER. Yes; that was the experiment.

Senator BULKELEY. I know it was drawn through one of them.

Senator OVERMAN. More than once.

Senator BULKELEY. I think they pushed it through once or twice.

Senator FORAKER. We have this clean rag here now, but as we have had one exhibition, I do not care to go through with this again.

By Senator BULKELEY:

Q. Did your men who surrounded this policeman who had the rifle attempt to do him any violence?—A. No, sir.

Q. They called your attention to him immediately?—A. Yes, sir.

Q. Before you ordered them to fall in, did they call your attention to the fact, or how was your attention called to it?—A. They called to me at once, sir; they said to me, "Captain, here is a man with a rifle."

Q. You have been asked some questions as to the propriety of their stepping out of the ranks on their discovering a man in khaki uniform with a gun in his hands. Now I want to ask you, you were sent to patrol the town, to see what you could find, as I understand it?—A. Yes, sir.

Q. To get any evidence in regard to the affray that had been going on? If you had discovered a bunch of men, or one or two or three, till engaged in shooting up the town, whether they were civilians or soldiers, would it not have been your duty as the commanding officer of that patrol to have interfered and arrested them?—A. Yes, sir; I think so.

By Senator WARNER:

Q. Captain, I had hoped that you would not go into that. You do not claim that you, a military officer, had any shadow of authority to arrest a man in the city of Brownsville that night or any other night?—A. I had no authority, sir; I knew that perfectly well, but I should have done it nevertheless.

Senator WARNER. I would rather keep out of a discussion of that. That is all.

(At 12 o'clock and 55 minutes p. m. the committee took a recess until 2 o'clock and 10 minutes p. m.)

AFTERNOON SESSION.

The committee reconvened, pursuant to the taking of the recess at 2.10 o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Taliaferro, and Overman.

TESTIMONY OF SAMUEL WHEELER (COLORED)—Recalled.

The CHAIRMAN. You will understand, Corporal, that you are testifying under the oath which you took before the committee at an earlier date.

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. What is your full name?—A. Samuel Wheeler, sir.

Q. You have testified before before this committee?—A. Yes, sir.

Q. You belonged to Company D of the Twenty-fifth Infantry, did you, Corporal?—A. Yes, sir.

Q. Did you go with your company from Fort Niobrara to Brownsville, Tex., when it went there, the latter part of July, 1906?—A. Yes, sir.

Q. Do you remember seeing the conductor of the train on which your company was carried to Brownsville?—A. Yes, sir.

Q. A Mr. Lunkenheimer has testified here that he was the conductor of that train from a place called Sinton for a distance of, I think, 162 miles, into Brownsville. That is the man I refer to. Do you remember him?—A. Well, I did not know his name, but I remember the conductor. He did not tell me his name at the time.

Q. The man to whom I refer testified before this committee a few days ago. He testified before this committee on Friday, June 7, according to the record I have before me. That was Friday of last week. State whether or not he was pointed out to you and whether or not you identified the man to whom I refer as the man who was the conductor of that train.—A. Yes, sir; he is the one. I identified him on the outside of the room, there, sir.

Q. About what place in the train did your company occupy?—A. My company had the whole entire of the fourth car of the section in which soldiers was and some portion of the third car.

Q. How many cars did the battalion have for the accommodation of the enlisted men of the battalion and noncommissioned officers?—A. I think, sir, there were four cars.

Q. And you were where in the train? Where were you with respect to the officers' car?—A. Why, in the rear of our car—right in the rear of the car which I were in, sir.

Q. Was the officers' car at the rear end of the train?—A. No, sir: I think the caboose or the car that the women was in—one or the other—were on the rear end of the train. I don't just remember now, sir.

Q. What women do you refer to?—A. The soldiers' wives that were going along.

Q. Oh, yes. They had a car also, did they not?—A. Yes, sir.

Q. Are you a married man?—A. Yes, sir.

- Q. Was your wife one of them?—A. Yes, sir.
- Q. Was she in this car to which you refer?—A. Yes, sir.
- Q. Now, you did not travel in the same car?—A. No, sir.
- Q. And you were with your company?—A. Yes, sir.
- Q. And that, you think, was in front of the officers' car?—A. I know it was right in front of the officers' car.
- Q. That was D Company?—A. Yes, sir.
- Q. Then what company was next to you, going forward?—
There was C Company.
- Q. And then B Company at the head of the train?—A. Yes, sir.
- Q. B, C, and D, then, was the order in which the companies were the cars in that train, as I understand you?—A. Yes, sir.
- Q. Now, did you see this conductor at any time during that trip after you left Sinton, the last day of your travel?—A. Yes, sir.
- Q. Please state where and under what circumstances you saw him, and what occurred. Tell us in your own way.—A. Well, sometime, after we had been out a couple of hours or such a matter, going down the road, the conductor and one of his brakemen came along.
- Q. That is, a couple of hours from Sinton?—A. Yes, sir; the conductor and one of his brakemen came along in the car. I was sitting out the third berth from the door which he came in.
- Q. The third berth from the door?—A. Yes, sir; and he stopped there for a few moments and stood up at the end of the bench.
- Q. Let me ask you before you proceed, with whom were you associated in that travel down there; who was assigned to the same berth with you, if anybody—the same section?—A. Corpl. Winter Washington.
- Q. Corpl. Winter Washington?—A. Yes, sir.
- Q. He was of your company?—A. Yes, sir.
- Q. What did you and he have, together?—A. We had one whole berth there, just between us; only two of us in that one berth.
- Q. State whether or not there was a whole section to every two men.—A. There was supposed to be three men to every section, two below and one up above, sir.
- Q. Was that the case with you?—A. No, sir; there was only two, with us.
- Q. In your section?—A. Yes, sir.
- Q. Now, state what happened when the conductor came along; what were you doing when he came along?—A. Me and Corporal Washington were sitting there talking and smoking, and the conductor stopped and spoke. "Good morning, boys." "Good morning, sir." "Where are you from?" We told him from Nebraska. "Pretty cold up in that country?" "Yes, sir." "You will find it is not so cold down here as it were up there. It is a better climate." Then about that time he sat down. That seat was vacant, nothing in it, and he sat down and he began to talk about what a nice country it was.
- Q. The conductor sat down in that section with you?—A. Yes, sir.
- Q. By the side of you or by the side of Washington?—A. Not in beside either of us, but facing us. The other seat was right in front of us; there was nothing in that, and he just sat down in there. I and Corporal Washington was sitting side by side.
- Q. You and Corporal Washington were sitting side by side?—
A. Yes, sir.

Q. And he sat on the other seat?—A. Yes, sir.

Q. How long did he sit there and ride with you in that way?—A. Well, just to estimate it, I suppose he sat there about an hour and a half, or such a matter.

Q. State what was the occasion of his leaving. I will ask you about the conversation later.—A. Well, his cause of leaving was they run into some cattle, and run over a cow or a steer, one, and some of the limbs of the animals got tangled up in the oil pipe which leads from the tender to the locomotive, and broke it, and we had to stop to repair that, and also to pull the animal out from under the tender and that part of the engine; so when the train stopped suddenly he jumped up and looked out to see what was the trouble with his train. That was what broke up our conversation and separated us, I suppose, as early as we was.

Q. Now, you can tell us what was the general nature of your conversation.—A. Well, he was speaking about the different climate, the climate of that part of Texas and the upper part, and up through Nebraska and Montana, where I had been, and over here in Pennsylvania, where he came from. He was telling us about how in his younger days he was a circus man, an acrobat, and had lost his health at the business, and gave it up and came West for his health, and got into the railroad business, and that he had been in Texas for a good many years, and that as soon as this branch road was put into Brownsville he made an application and changed down on that branch because it wasn't so far, and you got such an elegant breeze from the Gulf, up there, and it was such a great improvement to his health, was his reason for his being in there. About the town, he said it was nothing much there, mostly a Mexican town, six or seven thousand people; there wasn't much enjoyment there.

Q. I will ask you—

Senator WARNER. Let him go ahead.

By Senator FORAKER:

Q. Go right ahead.—A. But he says, "For a nice time, you boys can go across to Matamoros. Sometimes they go over and take on an excursion," he says, "when I am down here, and go down to the Point. There is a nice little island somewheres about the Point, and fish and fresh oysters, and so forth." We had a nice conversation and the man seemed to have been quite a gentleman in his remarks. Once he made the expression of "a nigger," and then he says, "Well, now boys, excuse me, because I don't mean a bit of harm." He says "I have been south so long that I have got southernized myself," and I says, "Never mind, just go right ahead, talk right ahead." I said, "I am a southern man myself, and I have gotten used to that, and it does not make any difference, a man is a man," and he said, "All right," and then he went on to tell about other things about the State, and so forth.

Q. Now, I will ask you whether anything like this occurred. I will read from this testimony. Speaking of the men with whom he was talking, he said:

They said, "Say, Cap, what kind of a town is Brownsville?" I said, "It is a right good little town, but it is nothing but a Mexican town, though."

That, substantially, was said, was it, or something like that?—

A. That was what he did say. The question was not asked. It might

ve been, but he didn't give us time. He just went on to give us a
agram of the nature of the country.

Q. (Reading:)

They says, "Any colored there?" I said "no, I didn't think there was a half
dozen families in the town." He says, "Christ, ain't there any saloons there?"
says, "Oh, yes; saloons galore." He says, "Any colored saloons, are there?"
says, "No; if there is I don't know it; but I have got some boys working for
that drinks there."

Was there any conversation like that?—A. Not to me, any such
conversation like that.

Q. Did you hear any such conversation?—A. No, sir; I never
heard any such conversation in that seat there with me and Corporal
Washington.

Q. I will read further:

Q. That is, you meant colored railroad men?—A. Brakemen.

Q. Brakemen?—A. Yes, sir; brakemen. Then I believe the same party spoke
ain—no; it was the party next to him.

The party next to you was Corporal Washington, was it?—A. Yes,
r.

Q. (Reading:)

He says, "Well, we don't care whether there is any of them or not. We will
ink in any of these damn bars. We will do like we did in so and so,"
entioning the place they were from.

Was there any conversation of that kind?—A. No, sir.

Q. (Reading:)

Q. Do you remember the name of that place?—A. No, sir; that place. I do
ot. He says, "When we first went to so and so we couldn't get a damn thing in
e place, but, by God, we were not there but two weeks when we showed them
here to drink; gave them a couple of clips under the lip, and we could get any
amn thing we wanted in town."

A. Was there any conversation of that character?—A. Why, no,
ir.

Q. Nothing of that nature?—A. There could not have been, be-
ause where we were, when we went there, everything was just like
ve left it. We were welcome every place, if we wanted to go.

Q. What I want to know is whether you or Corporal Washington,
r anybody else in your presence or in your hearing, made any remark
f that nature?—A. No, sir.

Q. (Reading:)

Q. That is the way he spoke?—A. Oh, yes. So, you know [witness indicating
y grimace]. That is the way they spoke it. I went on. They stopped me
nd talked, and I spoke to them and then went on.

Did you stop him when he went along there, or did he stop him-
self?—A. He stopped himself, sir.

Q. Then he proceeds:

On going out, a big ginger-cake darkey spoke to me—got me out on the plat-
orm.

Do you know of anybody going out with him on the platform?—
A. Why, no, sir; there was no one went out with him. He didn't
stop, he rushed out and there was a half a dozen—the whole crowd—
followed out behind him. We didn't have any conversation. I
know I didn't say anything to him.

Q. You went out to see what was the matter? Something had
stopped the train?—A. Yes, sir.

Q. You felt the jar, I suppose?—A. Yes, sir.

Q. Now, he says a big ginger-cake darkey followed him out. Then he tells us what he means by that. He says:

Between a yellow and a white, what we call a ginger-cake darkey; he came out on the platform, and he says, "Now, wasn't that nice?" He says, "Now, that is just the way with this regiment." He says, "We have got some of the nicest boys in this regiment that you can find anywhere, and then," he says, "we have got some of the toughest. Now," he says, "that is just the kind of people that does the dirt, and we all have to take the blame."

Was there any conversation of that character that you heard?—A. Not in my presence; no, sir.

Q. Did you hear of any such conversation?—A. No, sir.

Q. Or did you hear of anybody talking to the conductor in any such way as that in the course of the trip?—A. No, sir.

The CHAIRMAN. Senator Foraker, looking over this testimony, which was taken at a time when I was not in the committee room, it occurs to me to ask if there was anything that came before the committee that connected this witness with this conversation you have been reading?

Senator FORAKER. No; he only said he talked with somebody. He could not identify by name whom it was. He said he had a talk of this character, and then he said he talked in another car; but I want to show that there was no such talk as that here, although there was some other talk about the town of Brownsville. It is a matter of inference and deduction whether this was the conversation or not.

Now he says he had another conversation with somebody on the cars. I will not repeat what he said, but it was to the effect that some of the soldiers made inquiries of him as to lewd women in the town of Brownsville.

Senator WARNER. That was in another car.

Senator FORAKER. It may have been in another car than this, or it may have been this. It was in another car than that in which the first conversation was.

Senator WARNER. Yes.

Senator FORAKER. That is all. I want to find out whether this witness heard any talk of that kind.

By Senator FORAKER:

Q. Now, did you hear any talk about lewd women at all, from him?—A. There was nothing about women brought about in our conversation there at all, about any kind of women.

Q. Did you ask him anything about Mexican women or about colored women or about white women that might be found there for improper purposes?—A. No, sir; I had my wife with me, and I never make any inquiry about women nohow—nobody.

Q. Did you hear anybody make any inquiry of that kind?—A. No, sir.

Q. Did you hear him tell anybody about lewd women in the town?—A. No, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. How tall are you, Corporal Wheeler?—A. I am about 5 feet 11½, I believe, sir.

Q. You are about as dark as any of them in the company; you are about as dark colored?—A. No, sir; there are some darker and some few lighter than me.

Q. You say there were four cars that had the soldiers in them?—A. Yes, sir.

Q. And in the four cars how many soldiers were there?—A. Well, now, I don't know, sir; because all of the cars did not seat or sleep, I think, just the same number. Some of them carried a few more, and I know that the car which I was in, all of my company were not in my car. It taken four cars to carry the three companies.

Q. You do not pretend to know what conversation the conductor had in other cars or with others than yourself?—A. No, sir.

Q. You have no means of knowing?—A. No, sir; because I did not follow him up to these other cars. I only know the conversation that he personally held there with I and Corporal Washington.

Q. Yes.—A. And he went out of there. When he came through here again we were near Brownsville, and he didn't stop then. He said, "Well, boys, we are pretty near home now," and went on through.

Q. Then in your conversation you did talk about what kind of a town it was?—A. Did I ask him?

Q. Yes.—A. No, sir; but I might have asked him, but he went ahead and was telling me all about it.

Q. Did you ask about there being colored people there—if there were any?—A. I don't think I mentioned colored people at all. He just said it was a small town, six or seven thousand people.

Q. And nothing was said about saloons in that conversation?—A. No, sir.

Q. So that that must have been in a conversation with other parties there in your car, or in some other car, if any such conversation occurred?—A. It could have been.

Q. And it could have been had without you and Washington knowing anything about it?—A. In some other car?

Q. Yes.—A. Yes, sir.

Senator WARNER. That is all.

By Senator FORAKER:

Q. You did not see him talking with anybody else in your car, that you have any recollection of?—A. No, sir; when he left our car it was on account of this sudden stop down there, and he jumped up and looked out to see what was the matter with his train, and by that time it had stopped, and we all just piled out to see what was the matter.

(Witness excused.)

TESTIMONY OF WINTER WASHINGTON (COLORED)—Recalled.

The CHAIRMAN. You will understand that you are giving evidence to this committee under the oath which you formerly took.

A. Yes, sir.

By Senator FORAKER:

Q. Give the stenographer your full name.—A. My name is Winter Washington.

Q. Where do you reside now?—A. In Baltimore, Md., sir.

Q. Are you employed there in any way?—A. Yes, sir.

Q. In what kind of work are you employed there?—A. I am doing laboring work, sir.

Q. You were a corporal in Company D of the Twenty-fifth U. S. Infantry, when that company was in Brownsville, Tex., in August last, were you not?—A. Yes, sir.

Q. You went with your company from Fort Niobrara down to Brownsville?—A. Yes, sir.

Q. And you traveled by train?—A. Yes, sir.

Q. To make that trip?—A. Yes, sir.

Q. Do you remember with whom you were in company—I mean who was your bunk mate, if I may use that term properly—on that trip?—A. Yes, sir.

Q. Who was it?—A. Corporal Wheeler.

Q. Corporal Wheeler?—A. Yes, sir.

Q. State how many men were assigned to the section that you and Corporal Wheeler occupied.—A. I can not remember just how many men were in the same section, now.

Q. In the same section with you?—A. Yes, sir; in the same section with us. I can't remember just how many men there were with us.

Q. Were not three men assigned to each section, as a rule, but only two men were in your section?—A. Yes, sir; only two men to a berth.

Q. You and Corporal Wheeler occupied that section alone, did you?—A. Yes, sir; we occupied it alone.

Q. Do you remember the conductor who was on that train during the last 160 miles of the trip into Brownsville?—A. Yes, sir.

Q. You remember him, do you?—A. Yes, sir.

Q. Do you remember whether you and Corporal Wheeler and that conductor had any conversation during that part of the journey?—A. Yes, sir; I remember the conductor coming in—in our train—and myself and Corporal Wheeler were sitting in the seat together.

Q. Go on and tell in your own way what you heard. Speak out loud.—A. We were sitting in the seat together, and we were riding backwards, with our backs towards the engine, and the seat in front of us was vacant, and I remember the conductor came in—a kind of a thin featured man; he came in and sat down in the seat just opposite us, myself and Corporal Wheeler, and explained that this was a nice country we were going to, and we said, yes, and he asked us where we were from; and we told him we were from Fort Niobrara. He says: "You all are coming into Texas now," and we said, "Yes, sir;" and then he went on to explain what kind of a country it was and how the weather was down there, and so on, and him and Corporal Wheeler was doing quite a lot of talking about the country, and so on, and he went on to explain everything to us in regard to the country.

Q. State whether or not there was any unpleasant or disagreeable conversation indulged in by either party to the conversation.—A. No, sir; not anything at all.

Q. Let me read you from what he has stated as a witness before this committee. After saying that he was the conductor and he was passing through one of the cars, he says:

In going through the train I was hailed by a couple of the boys in the seats—there were four sitting facing each other—and they said, "Say, Cap, what

kind of a town is Brownsville?" I said, "It is a right good little town, but it is nothing but a Mexican town, though." They says, "Any colored there?" I said no, I didn't think there was half a dozen colored families in the town. He says, "Christ, ain't there any saloons there?" I says, "Oh, yes; saloons galore." He says, "Any colored saloons, are there?" I says, "No; if there is I don't know it; but I have got some boys working for me that drinks there."

Was any such conversation as that indulged in in your presence or in your hearing?—A. No, sir. After he sat down he went on to explain to us. We didn't ask him any questions at all, hardly.

Q. Yes. How long did he sit and talk with you?—A. I don't know exactly, sir; but I judge he must have sat there three-quarters of an hour or an hour, or something like that.

Q. Yes.—A. I don't know exactly.

Q. Do you know what interrupted the conversation and caused him to leave you?—A. Yes, sir; I remember we run into something—a cow or an ox—on the road that caused the train to stop. Corporal Wheeler, he went out, and he was telling me that it interfered with the rods under the train—something that was under there—and they had to pull out legs or something before the train could start again.

Q. Did you go out of the car?—A. No, sir; I didn't go out; I looked out of the window.

Q. You didn't go out on the platform with the conductor and do any talking?—A. No, sir.

Q. Did you have any talk with him any place except right in the seat where he sat with you?—A. No, sir; I didn't have any talk at all.

Q. Did you hear any such remark as this made by Corporal Wheeler or any other soldier: "Well, we don't care whether there is any of them or not. We will drink in any of these damn bars. We will do like we did in So-and-so," mentioning the place they were from." Did you hear any remark of that nature?—A. No, sir; I did not.

Q. (Reading:)

He says: "When we first went to so and so we couldn't get a damn thing in the place, but, by God, we were not there but two weeks when we showed them where to drink; gave them a couple of clips under the lip, and we could get any damn thing we wanted in town."

Was there any remark of that nature in that conversation?—A. No, sir; there was not.

Q. Or anything like that?—A. No, sir; he did not use any unpleasant words at all with myself and Corporal Wheeler, because he volunteered and sat down with us himself.

Q. Yes; he did not use any, but I want to know whether you used any?—A. We did not, because he was doing the talking. We didn't ask him any questions to amount to anything; he was doing the talking.

Q. You did not ask him questions to amount to anything?—A. No, sir.

Q. Then he says:

They stopped me and talked, and I spoke to them and then went on.

Did you stop him and ask him to sit down, or did he stop on his own motion?—A. No, sir; he volunteered to sit down himself.

Q. Now, he says:

On going out, a big ginger-cake darkey spoke to me—got me out on the platform.

Q. Do you know what a ginger-cake darkey is?—A. No, sir; I don't know what a ginger-cake darkey is.

Q. We did not know what it was, and he told us.—A. No, sir; I don't know what it is.

Q. He told us here:

Q. Ginger-cake darkey?—A. Yes, sir; between a yellow and a white; what we call a ginger-cake darkey. He came out on the platform, and he says: "Now, wasn't that nice?" He says: "Now, that is just the way with this regiment." He says: "We have got some of the nicest boys in this regiment that you can find anywhere, and then," he says, "we have got some of the toughest. Now," he says, "that is just the kind of people that does the dirt, and we all have to take the blame."

Did you hear anything like that said?—A. No, sir.

Q. By anybody?—A. No, sir.

Q. Now, he goes on here, in language which I will not repeat to say that inquiry was made by these soldiers about lewd women in Brownsville—whether there were any lewd women, or whether there were any white women or any colored women or Mexican women—some remarks on that subject. Did you hear any talk of that kind?—A. No, sir; we were not talking about any lewd women when he was sitting with us.

Q. Then, was there any talk about any women, of any kind?—A. No, sir; not while he was sitting with us.

Q. You heard nothing?—A. No, sir.

Q. You did not say anything of that kind to him?—A. No, sir; I did not, because myself and Corporal Wheeler was sitting with our backs to the engine, this way, and he was sitting in front of us.

Q. Yes.—A. And I could hear everything that was said, and I did not hear anything of the kind.

Q. You did not say any such thing, and you did not hear Corporal Wheeler say any such thing?—A. No, sir.

Q. And did you hear anybody around about there say any such thing?—A. No, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. There were only two in your seat?—A. Yes, sir; Corporal Wheeler and myself.

Q. You are quite clear about that, you are not mistaken about that?—A. No, sir.

Q. And you were sitting with your back to the engine?—A. Yes, sir.

Q. And the conversation that was had there, that you heard, and the only conversation that you heard, was when the conductor sat down in the vacant seat?—A. Yes, sir.

Q. In front of you?—A. Yes, sir.

Q. You do not know what conversation the conductor had with anyone else in that car?—A. No, sir.

Q. Or what he had in any other car?—A. He didn't have any conversation like that in my car, because he came in from that way [indicating] and sat right down in our seat. I know he didn't have any such conversation in our car.

Q. What part of the car were you sitting in?—A. We occupied the car next to the officers' car, the car Corporal Wheeler and myself were in.

Q. What part of the car were you in?—A. When we marched in, if I can remember, the company was reversed and the rear end of the company marched in ahead, and that put us about the center; that would give us about the third car. I can't remember just now, but I think we had about the third car.

By Senator BULKELEY:

Q. You mean the third seat?—A. Yes, sir.

By Senator WARNER:

Q. Let us see; do you mean the third car?—A. Yes, sir; about the third car.

Q. But what I am asking you is, what section or seat did you occupy in the car?—A. We occupied a section near the entrance going out into the other car—like here is the officers' car here [indicating] and there is the place there to go into the officers' car, and this is our car here [indicating].

Q. Was the officers' car ahead of or behind your car?—A. We were riding with our backs to the engine and the officers' car was ahead of us.

Q. Was ahead of you?—A. Yes, sir.

Senator FORAKER. That is, he means that it was ahead of them the way they were looking.

By Senator WARNER:

Q. Let us see; was the officers' car between you and the engine?—A. The officers' car was between us and the engine. We were looking towards the officers' car, this way [indicating]. We had our backs to the engine and the officers' car, if I can remember, was that way [indicating].

Q. That is, the officers' car was back of you?—A. Yes, sir.

Q. Back of you from the engine? So that I may understand, that is right, is it?—A. Yes, sir; that is about as right as I can remember it.

Q. About what time of day was this?—A. I don't know, sir, just about what time of day it was.

Q. Was it forenoon or afternoon?—A. If I can remember, it seems to me it must have been in the afternoon.

Q. Was it in the afternoon?—A. It seems to me; I am not quite sure. I am not sure of that.

Q. What time did you get on those cars?—A. We got on those cars in—you mean what time did we leave Fort Niobrara?

Q. Oh, you came through on those cars, did you, from Niobrara?—A. Yes, sir; from Niobrara.

Q. Yes; but at this point—Sinton—what time did you get there, do you know?—A. I don't just remember what time we got there; no, sir.

Q. Was it forenoon or afternoon?—A. We got to Sinton, I don't know exactly what time; I don't remember exactly what time, but I think it must have been in the afternoon. It seems to me now that it must have been in the afternoon.

Q. Well, I do not know, I am sure, Washington.—A. Yes, sir.

Q. Which was it?—A. I don't know exactly; I wouldn't say. I have partly forgotten about the road.

Q. Is it not a fact, Mr. Washington, that you got to Sinton early in the morning?—A. I will have to think for a minute. Sinton seemed to be a long shed on the railroad, they were just building. Yes, sir. It seemed to me that it was in the afternoon. I am not certain. I am not quite sure.

Q. Yes.—A. I can't say for certain, because I can not remember just now.

Q. And you do not know anything about what conversations the conductor had with anyone else in that car or in the other cars?—A. No, sir.

Q. You simply say that no such conversation as this occurred when the conductor sat down in the car, or in the section in which there were only yourself and Corporal Wheeler? That is correct, is it?—A. Yes, sir; no such conversation as that occurred in our section.

Senator WARNER. That is all.

By Senator BULKELEY:

Q. Was your section near the door of the car?—A. Yes, sir.

Q. Did you see the conductor come into the car when he came in through the door?—A. Yes, sir; we were riding with our backs to the engine, and he came in this way, facing us [indicating].

Q. Did he come right to your seat?—A. No, sir; he came right along, walking slow, unconcerned.

Q. Did he stop on the way down?—A. He stopped at our seat.

Q. He did not stop until he got to your seat?—A. Yes, sir; he only stopped when he got to our seat.

Q. And at once took a seat in the vacant part of your section, did he?—A. Yes, sir; he spoke to us.

Q. Well, did he take a seat there at once?—A. No, sir; not at once; he stood for a few minutes, and then sat down.

Q. He stood for a few minutes by you, and then took a seat?—A. Yes, sir; and then took a seat.

Q. And he did not leave that section until this accident?—A. Yes, sir.

Q. He sat there with you all the time?—A. He was sitting in that seat; yes, sir; all the time.

Q. From the time he entered the car, when he was under your observation, he remained either in close proximity or in that seat until he went out when the accident occurred; is that right?—A. Yes, sir; he was sitting in our seat until this accident occurred, and then he went out.

Q. So that there was no opportunity for a conversation in your car, practically, with anybody except you and your comrade? Was there any opportunity for him to converse with others in the car?—A. No, sir; he was only talking with us two there.

Senator BULKELEY. That is all.

(Witness excused.)

TESTIMONY OF JACK MATTHEWS (COLORED).

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Please state your name in full.—A. Jack Matthews.

Q. Do you give your name as Jack Matthews, or is it John Matthews?—A. Jack Matthews.

Q. Jack Matthews?—A. Yes, sir.

Q. Where do you live?—A. Washington County, Tex., is my native home.

Q. Washington County?—A. Yes, sir.

Q. What is the county seat of that county?—A. Washington County; Brenham, Tex.

Q. B-r-e-n-h-a-m?—A. Yes, sir.

Q. That is your home?—A. Yes, sir.

Q. Mr. Matthews, where were you employed during the month of August, the first part of the month of August, 1906?—A. Kingsville, Tex.

Q. What were you doing there?—A. Night watching.

Q. Night watchman for whom?—A. For the B. and M. Railroad system.

Q. State whether or not you were in Brownsville on the night of the 13th of August, 1906, where this shooting affray occurred.—A. I came in there that night.

Q. State how you happened to be in Brownsville that night. Speak out loud so that we can all hear you.—A. I had gone in there on a freight train.

Q. How did you happen to be in there? Was that any part of your duty, or were you off duty?—A. I was off duty.

Q. How did you happen to be off duty?—A. I was sick.

Q. You were sick?—A. I was sick, and I had gone down there on a vacation, looking around for my health.

Q. Were you visiting anybody there?—A. I was going down to visit Grant.

Q. Whom?—A. Mr. Grant.

Q. Mr. Grant?—A. Yes, sir.

Q. Was he a resident of Brownsville?—A. He was at that time.

Q. Was he a colored man?—A. Yes, sir; a colored man.

Q. Well, now, you went down on a freight train?—A. Yes, sir.

Q. What occurred after you got there? Tell us as nearly as you can, after you got there, and all about what you did.—A. I don't know exactly what time I got there, only it was dark; it must have been some time after 8 o'clock when I got in, and probably later, and I was going east, north of the fort, and I meets three white men with guns, about two blocks from the fort.

Q. Can you tell on what street you were when you met these men?—A. Well, I am not acquainted there, but I know it is about two blocks from the fort, north of the fort.

Q. Had you ever been to Brownsville before?—A. I had been there several times, but I was on duty then, and busy, and hadn't time to go out in the town.

Q. You were not familiar with the streets?—A. No, sir.

Q. Do you know where the Miller Hotel is?—A. Yes, sir; I know where that is.

Q. Where were you when you met these men of whom you speak; with reference to the Miller Hotel, where were you?—A. I was about a block from the Miller Hotel.

Q. In what direction from the Miller Hotel?—A. Eastward; kind of east from the Miller Hotel.

Q. Well, the Miller Hotel, as we understand it, is on the corner of Thirteenth and Elizabeth streets?—A. Yes, sir.

Q. And a block east would be up to Washington street. Where were you with reference to the Miller Hotel, as to being north or south of the Miller Hotel?—A. What do you say?

Q. Were you north or south of the Miller Hotel?—A. I guess I was about south of the Miller Hotel; I was south of the Miller Hotel.

Senator Scott. This spot here, Matthews, is supposed to be where the Miller Hotel was [indicating on map]. Now, over here is the barracks and the fort [indicating].

The WITNESS. Yes, sir.

Q. This is Elizabeth street, and that is Thirteenth street running the other way. Now, when you say east, which way do you mean from there [indicating]?—A. This way, east from where I was going at.

Q. Down towards the fort?—A. No, sir; the fort is south from where I was.

By Senator FORAKER:

Q. The fort is south from where you were?—A. Yes, sir.

Q. Now, you say you were about a square away from the Miller Hotel. I want to know whether you were a square from the fort or away from the fort with reference to the Miller Hotel.

Senator Scott. Or were you down towards the river here? Which way were you from this [indicating]?

A. I was north of the fort.

By Senator FORAKER:

Q. There is the hotel.—A. That is the hotel.

Q. That is Thirteenth street [indicating].—A. Yes, sir.

Q. And here is Elizabeth street.—A. Yes, sir.

Q. And there is Washington street; and we call that direction up towards Washington street east, and we call this direction, away from the fort, north.—A. Yes, sir.

Q. And towards the fort is south?—A. Yes, sir.

Q. Now, I understood you to say that you were about a square away from the Miller Hotel?—A. Yes, sir.

Q. I want to know whether you were north a square, which would be farther away from the fort, or were you south a square?—A. I was east a square, about a block, from the Miller Hotel.

Q. East of the Miller Hotel?—A. Yes, sir.

Q. That would be, then, up towards Washington street, as I point here [indicating]?—A. Yes, sir.

Q. About where were you, then; on Washington street?—A. Yes, sir; on that street.

Q. Up here?—A. Yes, sir; I was in the middle of the block, just across [indicating].

Q. In the middle of the block where?—A. Just across on the next set.

Q. You mean up on Washington street?—A. Yes, sir.

Q. You were up about there [indicating]?—A. Yes, sir.

Q. And you met three men?—A. Yes, sir; three men.

Q. You said they were white men. How do you know they were white men? How close were you to them?—A. I brushed right by them.

Q. You brushed right by them? What did they have?—A. They had a gun—they had two guns.

Q. What?—A. They had two guns.

Q. They had two guns?—A. Yes, sir.

Q. Was there one that didn't have any gun?—A. There was one that didn't have no gun.

Q. Did not have any gun?—A. Yes, sir.

Q. What did you do when you met them, or what did they do when you met you?—A. Didn't do anything; just passed each other.

Q. What were you doing?—A. Just walking around, looking at town.

Q. Where did Mr. Grant live? Were you going towards his house?—A. No, sir; I was going away from his house.

Q. Had you been to his house?—A. No, sir; I hadn't been.

Q. You had not been? Were you going to his house then?—A. No, sir; not then. I was going out towards the rice mills. The rice mills in that direction [indicating].

Q. The rice mills are in that direction?—A. Yes, sir.

Q. Did you go then to Grant's house later?—A. Later on.

Q. Can you tell what time of night this was that you saw these men?—A. It must have been between 10, I guess—

Q. Between 10 and what?—A. Between 10 and 11 o'clock.

Q. Between 10 and 11 o'clock. Did you hear any firing that night?—A. Yes, sir; later on.

Q. How much later on?—A. Well, I guess it must have been about an hour or an hour and a quarter, or something like that, afterwards.

Q. Where were you when the firing commenced?—A. I had made it back around to Grant's house.

Q. What?—A. I had made it back around to Mr. Grant's house.

Q. You were at his house?—A. Yes, sir.

Q. Were you asleep or awake?—A. I was awake, sitting near the window.

Q. Talking?—A. Talking; yes, sir.

Q. Did you see where the firing was?—A. I couldn't see.

Q. Or anybody that did any firing?—A. No, sir; I couldn't see anything from where I was; only heard.

Q. Where did you stay that night?—A. I stayed in the caboose all night; I went back to the train.

Q. You stayed where?—A. In the caboose.

Q. How did you get to the caboose after this firing was over?—A. Well, when everything ceased, I went on back to the caboose with the other fellow.

Q. You slept there? And then went on out of town on a train the next morning?—A. No, sir; I went into Mexico the next day.

Q. Where?—A. I went into Mexico, to Matamoros.

Q. How did you happen to go to Mexico the next day?—A. About

12 o'clock they held a meeting up in the post-office, and the committee came down, and they said they were going to run every negro out of town, and I thought that my best chance was across the river.

Q. Is that all you know about the shooting?—A. Yes, sir; that is all I know about it.

Q. You did not see anybody do any shooting?—A. No, sir.

Q. You do not know who did do the shooting?—A. No, sir.

Q. All you know is that you saw three men, two of whom had guns, and one of whom did not have any gun?—A. Yes, sir.

Q. And you think they were white men?—A. Yes, sir.

Q. Are you sure of that?—A. Yes, sir.

Q. Can you tell us how they were dressed, or did you notice that?—A. Well, I slightly looked at them, and they had on khaki pants—what I would call yellow pants, or something like that—and a dark coat.

Senator FORAKER. That is all; you can take the witness.

By Senator WARNER:

Q. Were there three or four men, you say?—A. Three men; that is all I seen—three men.

Q. And those men were dressed like soldiers?—A. They had on khaki pants and colored coats, that I saw.

Q. Colored coats?—A. Yes, sir; like this [witness indicating his own coat].

Q. Well, now—A. Like this. I suppose they were dark, you know. I say dark coats.

Q. Did they have belts on?—A. I could not see their waists. I could look at their legs.

Q. They had on leggings?—A. No, sir; they didn't have on leggings. They had on the pants, you know, and the coat.

Q. How far were they away when you first saw them?—A. How far were they away?

Q. That is what I asked.—A. Oh, I guess when I first discovered them they were about 40 feet from me, I guess; probably not so far.

Q. No. It may have been a little farther?—A. Yes, sir; it may have been.

Q. It might have been more than 40 feet or might have been less than 40 feet?—A. Yes, sir.

Q. Which way were you going?—A. I was going eastwards.

Q. Which way were they going?—A. They were coming west.

Q. Coming right towards you?—A. Yes, sir.

Q. And you saw them when they were coming?—A. Yes, sir.

Q. Where were they when you first saw them?—A. They were coming.

Q. I know they were coming, but where from?—A. Where from?

Q. Yes.—A. They were on the street, and meeting me; straight up the street.

Q. I know, but what street were they on?—A. I am not acquainted with the Brownsville streets, but they were on the same street I were on.

Q. Where did you leave that night to come to Brownsville?—A. Sir?

Q. Where were you when you started for Brownsville that night?—A. I was in Kingsville.

- . In Kingsville?—A. Yes, sir; I left Kingsville.
- . Kingsville?—A. In the morning.
- . You left in the morning?—A. Yes, sir.
- . How far is Kingsville from Brownsville?—A. It is 118 miles.
- . You were sick and were on a vacation?—A. Yes, sir.
- . Were you in a caboose?—A. No, sir.
- . Were you on a freight train?—A. Yes, sir.
- . How did you go on a freight train?—A. I rode on top and in box car, together.
- . On top and in a box car?—A. Yes, sir.
- . Then you were beating your way?—A. No, sir; I was not finding my way.
- . Did you pay your fare?—A. No, sir.
- . What?—A. No, sir; I was working for the company.
- . I understand. Didn't they have a caboose on?—A. Yes, sir.
- . Why did you not ride in the caboose?—A. Because I wanted to get out with the men.
- . Therefore you rode in the box car?—A. A part of the time.
- . And part of the time on top of the cars?—A. Yes, sir; part of the time on top of the cars.
- . How much of the time in a box car?—A. Oh, I suppose long enough to run about 10 or 12 miles to a station. I would get to a station, and then I did not want to ride inside of a box car, and I would come out and ride on top.
- . When you would get to a station, you would go in a box car?—A. When I got to a station I came out and helped handle freight.
- . You came out and helped handle freight?—A. Yes, sir.
- . You would come off the top of the car?—A. Yes, sir.
- . Who was conductor on that freight train?—A. I disremember who was conductor.
- . You were working for the road?—A. I disremember who was conductor.
- . You were working for the road, I say?—A. I wasn't working for the road; I was working for the company. My job was night brakeman at the shop.
- . Who was the brakeman?—A. I disremember who was the brakeman; they change the men so—new men.
- . How many brakemen were there on that train?—A. Two.
- . Now, you left there in the morning?—A. Yes, sir.
- . What time did you get to Brownsville?—A. If we got there on time, they are due there about 7 o'clock, but they hardly ever are on time.
- . I know. But I don't know anything about it; what time did you get there that night?—A. Somewhere after 8 o'clock, I guess.
- . What makes you say it was after 8 o'clock?—A. It was after dark.
- . After dark?—A. Yes, sir; after dark.
- . Was it as late as 10 o'clock?—A. I don't know; I didn't have a watch.
- . Was it as late as 9 o'clock?—A. I don't know whether it was or not. I don't think it was.
- . Where did you go when you first got into Brownsville?—A. Where did I go?
- . That is what I said.—A. I commenced going about over town.

Q. I know, you commenced to run about over town.—A. Yes, sir.

Q. But where did you go?—A. I went to a restaurant—a Mexican restaurant.

Q. Where is that Mexican restaurant?—A. It is northeast of the fort, too, I think.

Q. On what street?—A. I don't know on what street.

Q. What way from the Miller Hotel?—A. What way? It is southeast—east.

Q. How far?—A. It is about—I guess it is—five blocks away. I guess.

Q. Five blocks southeast?—A. Yes, sir.

Q. From the Miller Hotel?—A. Yes, sir.

Q. What is the name of the man that keeps that restaurant?—A. I don't know what his name is.

Q. Had you ever been there before?—A. Yes, sir; I was there a year before that, on a Sunday.

Q. You got your supper there, did you?—A. Yes, sir.

Q. At that restaurant?—A. Yes, sir.

Q. And then which way did you go?—A. Which way did I go?

Q. That is what I asked.—A. I came back in town.

Q. I know, but how did you get back to town; what road?—A. What road?

Q. Yes; that is what I said.—A. I came back up another street farther out.

Q. I know, but what street farther out? Farther south?—A. I don't know the names of the streets.

Q. But was it farther south or was it north or farther west?—A. It was just the street beyond.

Q. Beyond what?—A. North.

Q. Of the Mexican restaurant?—A. Yes, sir.

Q. Then where did you go?—A. Where did I go?

Q. Yes.—A. I was down on the street where I told you, where I met these men.

Q. What time was it that you met these men?—A. I guess it was about half past 10.

Q. What direction were you going, east or west, north or south?—A. I was going east.

Q. Going east?—A. Yes, sir.

Q. You were already up there, away southeast, five blocks southeast, and you were still going east?—A. I had been east.

Q. You had been what?—A. I had been east, before I met these men, and then I was going back east.

Q. Going back east?—A. Yes, sir.

Q. Where were you going?—A. Going out towards the rice mill.

Q. Where is the rice mill?—A. In the eastern part of the town.

Q. What were you going to do at the rice mill, at 10 o'clock at night?—A. Walking around, looking.

Q. And just looking at the rice mill?—A. Walking around, looking.

Q. Was it dark that night?—A. Yes, sir; it was a dark night.

Q. On a dark night you were walking around looking?—A. Yes, sir.

Q. Why should you go to look at the rice mill?—A. I was not looking at the rice mill in particular. We call it that when we go out.

ing at the rice mill, because it is out in the vicinity where the
generally used when they went to town, where they generally
when they would go to town.

. So you called that going to the rice mill?—A. I thought that
I was in town that I would go out and look at it, to see what
the values.

. What were the values?—A. See what was out there.

. You said, "See what the values were out there."—A. I wanted
what was out there.

. That is where lewd women lived, was it?—A. I don't know
whether they did or not.

. What values were you going to look at?—A. I was going out
to see what they were going out there so much for—to try to
out—but I did not try to find out.

. Find out who were going out there so much?—A. The other
red boys, when they would come to town.

. What did you find out?—A. I did not find out anything.

. Did you go to the rice mill?—A. No, sir; I did not get to the
mill.

. How far did you go?—A. I guess I went within about nearly
blocks of it, or a block.

. Then you went to Grant's house?—A. Yes, sir.

. In going back to Grant's house do you know what street you
t on?—A. Going north from the fort?

. North from the fort.—A. Yes, sir.

. That is, when you were up there at the rice mill, you went
h?—A. Yes, sir; I had to go north. I had to come back west.

. Which way was it, west or north?—A. West.

. You came back west?—A. Yes, sir.

. What is Grant's given name?—A. George, I think—George
nt.

. Are you sure of that?—A. Yes, sir.

. Do you know what street he lived on?—A. No, sir.

. What was he doing?—A. He was braking.

. Braking on what?—A. On a freight train.

. Where is George now?—A. I don't know, sir; he got discharged,
I don't know where he is now.

. You went down to George's house?—A. Yes, sir.

. What time did you get there?—A. What time did I get there?

. Yes; that is what I asked.—A. I guess I got there about—I
t know exactly what time I did get there, but about 10 o'clock, I
is, or something after.

. Do you think you got there as soon as 10?—A. I guess so;
don't have no watch—didn't have no timepiece.

. Where was it you met these three men, two of them having guns
one without a gun—when you were going to the rice mill?—
Yes, sir; going.

. When you were going to the rice mill you met those men?—
Yes, sir.

. Then that was pretty early in the evening?—A. Well, yes, sir;
less it was.

. You must have been mistaken if you said you met them between
nd 11 o'clock?—A. Well, I suppose I met them about that time.

. What time?—A. About between 10 and 11 o'clock.

Q. Now, you think it was between 10 and 11 o'clock. Were you going to the rice mill between 10 and 11 o'clock?—A. Yes, sir.

Q. How long did it take you to get to the rice mill?—A. If I had gone down there I don't know how long it would have taken me, but I did not quite get there.

Q. You got within two blocks of it?—A. I suppose within two blocks of it.

Q. How long were you going out there?—A. Not very long.

Q. Where did you stay out there?—A. I didn't stay out there.

Q. Went out to look after values, but did not stay anywhere?—

A. Stayed in the caboose.

Q. But when you were going out, you know—A. I was just walking; I kept along, walking.

Q. Just walking around?—A. Just walking around.

Q. Then you came back to Grant's house?—A. Yes, sir.

Q. You heard the shooting?—A. Yes, sir; I heard the shooting.

Q. Did you ask anybody what it was?—A. No, sir.

Q. Did Grant say a word to you?—A. Grant was not at home.

Q. Who was at home?—A. There was two ladies there.

Q. Who were they?—A. One was his wife and one was a visitor.

Q. Did you say anything to them about the shooting?—A. They merely said they wondered what is that, that was all.

Q. You did not say a word?—A. No, sir.

Q. Did not answer them at all?—A. No, sir.

Q. Then you stayed there until after the shooting was over?—

A. Yes, sir; until after the shooting was over.

Q. Then a committee came down to Grant's house?—A. No, sir; no committee didn't come there.

Q. Where did you see that committee?—A. I said on the next day, the day after the shooting—

Q. But you went and slept in the caboose that night?—A. Yes, sir.

Q. And it was the next day that the committee came after you?—

A. No, sir; I said I was walking down by the post-office and the committee had been up overhead in the post-office and had held a meeting, and they came down and I reckon there was about 150 on the ground, probably more, or might not have been so many, and one white man says, "They are going to run all the niggers out of town. They shall not any stay here."

Q. Were there many negroes in Brownsville at that time?—A. I did not see anyone but me and the soldiers, and I thought it was my chance to get across the river.

Q. You thought you would get out before you were run out?—A. Yes, sir.

Q. You went to Matamoros?—A. Yes, sir.

Q. How long did you stay there?—A. All the balance of the day. About 12 o'clock I came across the river.

Q. Came back in the caboose that night?—A. No; I came back that night and stayed in the caboose, and left the next morning—the next day.

Q. For Matamoros?—A. For Kingsville.

Q. Did you go back in the caboose to Kingsville?—A. I rode part way in the caboose, going back part of the way on the train.

Q. The same way as you came down?—A. Yes, sir.

- Q. Where do you live now?—A. Where do I live now?
 Q. That is what I asked you.—A. I am living here now, but when I was at home I am stopping in Texas.
 Q. Well, how long have you been here?—A. Well, I have been here about twenty-one or twenty-two days, I guess.
 Q. Twenty-one or twenty-two days?—A. Yes, sir.
 Q. And where did you come here from?—A. Texas.
 Q. Kingsville?—A. No, sir.
 Q. Where from?—A. Brenham, Tex.
 Q. How long have you been there?—A. I have been there, I guess, about a month.
 Q. And what were you doing there?—A. I was there visiting my people.

By Senator OVERMAN:

- Q. Where did you come from to Brenham? When you went to Brenham where did you come from?—A. From Houston.

By Senator WARNER:

- Q. What kind of guns did those men have?—A. They looked to me like Winchesters.
 Q. Looked like Winchesters?—A. Yes, sir.
 Q. You don't know if they might have been Springfields?—A. Oh, I don't know what—I am just telling you the way they looked to me, looked like Winchesters, looked to me like it was Winchesters.
 Q. Could you tell whether they were Winchesters or Springfields?—A. No, sir; I could not tell that.
 Q. What was there about them that looked like Winchesters to you?—A. Why, I said they looked like Winchesters; it is the customary thing for people in that country to hunt mostly with 'guns that, and I thought they was Winchesters.
 Q. How far were they away from you when you first saw them?—A. I guess it must have been about 40 feet, probably farther, or may have been so far.
 Q. You say they had these yellow trousers on, khaki trousers?—A. Yes, sir.
 Q. And coats?—A. No, sir; they did not have on no yellow coats; on coats something like—
 Q. Did not have on yellow coats?—A. No, sir.
 Q. Had blue shirts?—A. I did not see any blue shirts.
 Q. Had they hats or caps?—A. Hats—had on hats.
 Q. They did not say a word to you?—A. No, sir.
 Q. You did not say a word to them?—A. No, sir.
 Q. You did not see anything more of them?—A. No, sir.
 Q. Did you see any soldiers out patrolling the town when you were there?—A. No, sir.
 Q. You were walking around two or three hours, weren't you, up the river mill and around?—A. Perhaps I was; I didn't have no conversation with me.
 Q. I know, but in your judgment you were walking around two or three hours?—A. Yes, sir; I was walking around.
 Q. Two or three hours, just seeing the town?—A. Yes, sir; look on.

By Senator OVERMAN :

Q. It was all quiet in the town where you were; you did not see anybody out?—A. Yes, sir; everything was quiet where I was.

Q. Everything was very quiet about half past 10 or 11?—A. Yes, sir.

Q. Whom did you tell this to before? Did you ever tell it before?—A. No, sir.

Q. Never told it before?—A. No, sir.

Q. You are positive this is the first time you ever stated it—here to-day?—A. Oh, I was talking to a white fellow in Brenham about it.

Q. Who was he?—A. I don't know who he was.

Q. Don't know his name?—A. No, sir; merely talking about it.

Q. Did you tell anybody else about it?—A. No, sir.

Q. He is the only man?—A. Yes, sir.

Q. And he was a white man. What does he do there?—A. I don't know whether he lives there or whether he was traveling through there. I got in conversation with him that day.

By the CHAIRMAN :

Q. You say those men had hats on?—A. Yes, sir.

Q. What kind of hats—stiffs hats or slouch hats?—A. Looked something like what I wear, like a Lemley hat, a broadbrim. It was not a stiff hat, did not look to me like it.

Q. Soft hats; and what color?—A. Soft hats.

Q. And what color, black or brown or white?—A. Why, you know in the dark I could not see—well, I guess they were black hats.

Q. What kind of band did they have, cords and tassels, or just a common hatband?—A. I did not see any bands on them at all.

Q. How near were you to them at the nearest point?—A. I brushed right by them.

Q. How near would that be?—A. Close enough to touch one.

Q. So you could touch one?—A. So I could have touched one if I had wanted to.

Q. You did notice the color of the hats, or whether they had bands on?—A. Perhaps they might have been black or dark, or might have been brown, I could not tell.

Q. Did you say they were white men or colored men?—A. I said they were white men.

Q. By white men do you mean they were Mexicans or that they were American white men?—A. Well, you know Mexicans in that country are pretty white, but I just said they were white.

Q. I wanted your idea, whether they were Mexicans or Americans?—A. Well, I will tell you what I taken them to be—white; that is what I taken them to be, but of course they might have been Mexicans. I taken them to be white people.

(At 3 o'clock and 25 minutes p. m. the committee adjourned until Friday, June 14, 1907, at 10 o'clock and 30 minutes a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Friday, June 14, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Scott (in the chair), Foraker, Lodge, Hemenway, Bulkeley, Warner, and Taliaferro.

**TESTIMONY OF BRIG. GEN. ANDREW S. BURT, U. S. ARMY,
RETIRED.**

(The witness was sworn by Senator Scott.)

By Senator Scott:

Q. Give the stenographer your full name, General, and your present position.—A. Andrew S. Burt; brigadier-general, U. S. Army, retired, Washington, D. C.

Q. What time did you retire?—A. In 1902; in May of that year.

Q. What regiment were you in command of when you were promoted to a brigadier-general?—A. The Twenty-fifth Infantry.

Q. How long had you been commander of it?—A. For about ten years, excepting the time I was brigadier-general of volunteers, during the Spanish-American war. That was a very short time, only a few months. I joined it in 1892, and was mustered out, or rather promoted to brigadier-general, retired, in 1902. It was about ten years.

Q. General, the question has come up before the committee as to the character of some of the men of the battalion which was dismissed from the service without honor last year. I will name over some of the men in that battalion, and as I name them I would like you to give me your opinion as to their reliability and their truth, whether they could be trusted, or their word taken. The first man I find here is this man Sanders—Mingo Sanders.—A. Sergt. Mingo Sanders?

Q. Yes.—A. I know him very well, sir. He served with me. There is no better first sergeant in the United States Army than Sergt. Mingo Sanders. His veracity, as he sees a thing, is beyond question.

Q. How about Sergeant McCurdy. Do you remember him?—A. McCurdy is a good man and a trustworthy man. I do not know him as well as I do Sanders.

Q. There are a number of these noncommissioned officers. I do not want to ask you about the privates. You remember James R. Reid?—A. I do not recall him distinctly, sir.

Q. Here is George Jackson, Sergt. George Jackson. Do you remember him?—A. Not definitely.

Q. General, all we want, at least all I want—I do not know what others members of the committee may want to make inquiry about—to show the character of some of these men; as it has been testified before this committee by some very prominent gentlemen, that they would not believe them on oath or otherwise. What about George W. McMurray?—A. McMurray?

Q. Yes.

Senator WARNER. I would merely suggest, Senator, that that may be a little leading, you know. I hardly think they have testified that broadly, that they would not believe them. I think the substance of it was that they would not believe them where interested, as in this case. However, go on. I will not raise any objection.

Senator TALIAFERRO. I did not understand that there was any testimony as broad as Senator Scott has put it in his question.

Senator SCOTT. Let us see what General Garlington said.

Senator WARNER. Let the question go.

By Senator SCOTT:

Q. Well, what is your answer, General, regarding McMurray?—
A. What were his initials and what was his rank?

Q. His name was George W. McMurray.—A. I can not place him.

Q. He was quartermaster-sergeant of Company C when he was mustered out without honor.—A. McMurray?

Q. Yes. I presume that he was not a noncommissioned officer until after you were out. I see by his record that he was not mustered in on his first term of service until 1898.—A. I do not recall him specifically, sir; but I can say in general terms that those men are all to be believed on their oath. I would believe them if I were sitting on a court-martial and they were even called in their own defense.

Q. You would say the same about Sergt. Israel Harris?—A. Well, I speak of that generally; yes, sir. Any man who was a noncommissioned officer in the Twenty-fifth Infantry not only has had that training and discipline that has been carried on for a long time, but all noncommissioned officers were carefully scrutinized and selected and under a rigid examination as to character. That was absolutely necessary in the Twenty-fifth Infantry in order to obtain the very best material as noncommissioned officers. The colored troops differ somewhat from the white troops in this, that it is necessary to have the most excellent material for noncommissioned officers. That might be said of white troops, but it is absolutely necessary with the colored troops, at least in the Twenty-fifth Infantry, and our class of noncommissioned officers there during my term were as fine as any in the United States Army, or any army in the world, I am prepared to say. They were a class of men that you could give an order to and turn your back and not have to observe them at all and you would know that that order would be carried out in the spirit and the letter. That means a great deal, whether applied to commissioned officers or noncommissioned officers—the spirit and the letter of the order.

By Senator FORAKER:

Q. General, you have just now stated what I wanted to ask you. In selecting noncommissioned officers you were not only careful to get men who had good soldierly qualities, but men who were reliable as men, were you not?—A. As to character, certainly. Certainly, sir; I was.

Q. You have already given your opinion as to Mingo Sanders. Now, Walker McCurdy has testified before this committee. At the time when he was discharged without honor, he was quartermaster-sergeant of Company B. He has been in the service since July 5, 1890, continuously a member of Company B of the Twenty-fifth Infantry. He was discharged as a sergeant July 4, 1895, and then

gain discharged as a sergeant July 4, 1898, at the end of his second enlistment.—A. McCurdy?

Q. McCurdy.—A. Yes; now I recall. Yes, I would believe him absolutely. I recall an incident about McCurdy which occurred at Fort Missoula, that when he was charged with a grave offense, and he had come up under examination, on his own testimony he was relieved, because when I said, "Sergeant McCurdy, is that true as you state to me," he said, "It is, Colonel," and he was relieved from the offense. I do not recall exactly what it was, but I remember his being before me at the time.

Q. And you had that confidence in him?—A. That confidence in him.

Q. Which your act would indicate?—A. Yes, sir.

Q. And that was the result of long experience with him and observation of him as a soldier and noncommissioned officer?—A. Yes, sir.

Q. James R. Reid, of Company B, was a sergeant when he was discharged without honor, and he served, it seems, from May 17, 1898, when he enlisted as a private, down until November 16, 1906, when he was discharged. He was in Company B. Do you recall him?—A. I do not recall him; no, sir.

Q. George Jackson served as a sergeant, and he was the sergeant in charge of the quarters of Company B at the time of this shooting affray. Do you remember him?—A. I do not, specifically, sir.

Q. State whether or not these men took pride in the performance of their duties faithfully as soldiers.—A. You mean the soldiers of the Twenty-fifth Infantry, or these special men?

Q. No; I am speaking of your noncommissioned officers, if you can recall.—A. If you will permit me to say this, so as to give weight to what I say, I have probably served with as large a number of regiments of white troops as any other officer on the active or retired list, at least a large number, during the war and on the frontier in Indian campaigns, and after that.

Q. Yes.—A. And I want to say that I have served with no troops that were better than those of the Twenty-fifth Infantry—better in anything, in truth and faithful service, marching, fighting, or anything else.

Q. Was there or not anything in their nature or in their character, as you can recall them, that would suggest to you the probability of their organizing a conspiracy to go out at midnight and shoot up a town, and murder men, women, and children indiscriminately, like a lot of assassins?—A. That is a rather broad question. I believe if they were abused and put upon, they might resent it, as any other men would; but to organize a conspiracy against the law, I do not think that they, as a rule, would do that. I want to say that it has been my observation that the colored soldier is a law-abiding man. I wonder if you can understand what I mean. I mean to say that he has a reverence for the law. The colored man as a soldier is one of the best, for the reason that he has been disciplined for generation after generation. And they take great pride in their officers. They are the only troops of modern days, or since the war, and the old soldier of the frontier, of the old days before the civil war, who still retain the custom of saying, "My officers." "My officers." That

means a great deal. I mean to say they are obedient; trustworthy. Of course in all gatherings of a crowd of men there is a proportion of bad men. I do not mean to say that the Twenty-fifth Infantry were all angels with wings sprouting, but they were very near it. I mean to say they were a good class of men, as a rule.

Q. If such a thing should occur as that a number of the men in these companies in Brownsville should organize a conspiracy to go out and shoot up a town, and execute it, would you or not think that the rest of the members of the battalion would enter into a conspiracy of silence, to withhold all knowledge that they might have as to who did it, which would lead to the detection of those who were guilty?—A. From my knowledge of the colored man's character, it would be simply impossible for that not to leak out. The colored man is essentially a vain man, and if a number of those men had been in a conspiracy, some one man of that crowd, if he had been in it, would have wanted to tell, so as to aggrandize some credit to himself. They are naturally a vain race.

Q. So that you would not expect the members of the battalion who had nothing to do with the shooting to try to conceal the facts in regard to it, and prevent the detection of those who were guilty?—A. No, sir. Sergt. Mingo Sanders of course came to see me at once, before he came to see the committee, when he arrived here, and I said to him in my office, "Now, Sanders, we are here alone; tell me all about it," and he looked up, and he said, "General, I will tell you all I know," and he said, "So far as I know, our men were not in it. I tried to find out. I tried to find out if they were in it, and I am satisfied, sir, that they were not in it. I tried all I knew how."

Q. Well, did he impress you at the time he made that statement to you as telling you the truth?—A. Oh, he was telling absolutely the truth as he saw it—as he knew it.

Q. Now, General, I would like to get an answer directly, if I can, to the question I put to you, whether or not you think if there were 10 to 15 or 20 members of this battalion engaged in a midnight raid of such a character as this was, if they did it, you would expect, from what you know of them, that the other members of the battalion—we will say 140 men—would try to withhold all knowledge that they might have that would lead to the detection of those men who did it?—A. It would be an impossibility, sir, I say, knowing as I do the colored man. That would be simply an impossibility.

By Senator SCOTT:

Q. Well, then, General, if 10 or 12 or 15 men of this regiment did this shooting up of the town, as I understand you, you say that the other 140 or 150 certainly knew nothing about it, or else the thing would become public?—A. It would, undoubtedly, sir. They knew nothing of it.

Q. The conspiracy would be only between 15 or 20?—A. Yes, absolutely. They could not have kept it.

By Senator FORAKER:

Q. I want to call your attention, and see if you can recall him, to another witness who testified before us, George W. McMurray, quartermaster-sergeant of Company C at the time he was discharged. He is a man past middle life, as I recall him. He entered

on his first enlistment July 18, 1898, and then he was mustered out as a corporal, and he served as a corporal during his second enlistment, and also during his third enlistment, and then he was mustered out as quartermaster-sergeant. He was a corporal while you were in command of the regiment. Do you recollect him or not?—A. I do not, sir; I do not place him.

Q. Do you remember Sergt. Jacob Frazier, of Company D?—A. Frazier? Is not Frazier the sharpshooter?

Q. He was first sergeant of Company D at the time he was discharged.

Senator SCOTT. He enlisted first August 10, 1892, and he reenlisted in 1897 and again in 1900 and again in 1903; but that would be after your service.

The WITNESS. What company?

Senator FORAKER. Company D.

The WITNESS. No; I do not recall him specifically, although I ought to know about him. I ought to, gentlemen, but I have forgotten.

By Senator FORAKER:

Q. He seems to have been a duty sergeant during most of the time, or all of the time, probably.—A. Aye; I have an indistinct recollection of a sharpshooter, a great shot, by the name of Frazier; but it would be impossible for me to say positively, under oath.

Q. I will not go specifically over any of the others, but any of these men who were among the old noncommissioned officers, you would believe them under oath, even where they were interested?—

A. I would believe them absolutely, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Did you know the sergeant-major of the regiment?—A. Sergeant-Major Morrow?

Q. Sergeant-Major Taliaferro.—A. Oh, I know Sergeant Taliaferro.

Q. You would believe him also?—A. Oh, undoubtedly. I do not know where he gets his name. He is a good breed, anyhow.

Q. It is a good name?—A. Yes, sir; a good name. May I tell an incident that occurred down at Chattanooga, at Chickamauga Park, in which Sergeant Taliaferro was associated?

Q. Yes; certainly.—A. This might bear on the law-abiding spirit of the Twenty-fifth Infantry. When the Twenty-fifth was ordered down to Chickamauga Park in 1898—and, by the way, it was the first regiment of all the troops, national or regular, ordered out—we got to Chickamauga Park, was near Chattanooga, and there was a railroad running down a short distance, carrying the men into Chattanooga. There my men ran against the jim-crow law. I suppose, Senator Taliaferro, you know what I mean by the jim-crow law.

Senator TALIAFERRO. We all understand that, General.

The WITNESS. I had always sources of information; I kept in touch with the men. I saw that there was a very strong feeling rising—I will not say a mutinous spirit—but a very disgruntled feeling, about this jim-crow law, and one day the sergeant-major came to me and said, "There is a committee of the noncommissioned officers, sir,

want to speak to you," and he said, "Well, send them here." and they came to my tent and I stepped out, and up in front of them stepped Sergeant Taliaferro, a big, tall, husky-looking man, one of the finest noncommissioned officers of the regiment. He saluted, and he said. "Colonel, we are a committee sent to ask about this jim-crow law. We think it is unjust. We pay our money, we are respectable and clean and orderly, and the men feel very sore over it, being ordered off and herded like cattle, and want to know whether something can not be done about it and what you think." I paused a little, so as to give it an effect, and I said, "Sergeant Taliaferro, and you noncommissioned officers, do you recall the order I published to the regiment before we came down here, in which I said that here was an opportunity for you to prove to the country that you were as law-abiding citizens as any in the United States?" He said, "Yes, sir." "Well. I want to say that in the circumstances under which we are down here, whether that law is a just one or not, it is the law. It is the law, and I say to you, and through you to the regiment, that I expect them to obey the law." Old Taliaferro straightened himself up and said, "Colonel, we will obey the law, and see that the men obey the law." "And see that the men will obey the law." I give that as an instance of their discipline. I hope I have not trespassed, gentlemen.

Q. Oh, no; not at all. But there was a good deal of feeling in the regiment about it?—A. Oh, yes, sir; there was feeling.

Q. And, if I understood, you used the word "mutinous;" you said something about a mutinous feeling?—A. Well, no; I can not say that. Just a feeling of uneasiness; not a mutinous feeling. No; I never have seen a drop of mutiny in my regiment.

Q. I understood you to use that word, General.—A. I may have done so; but if I did, I withdraw it, sir.

Q. You say that the colored man is a vain man?—A. A what?

Q. A vain man.—A. I think he is, sir. I know he is. That is from my observations in my regiment and other places.

Q. And if he had been engaged in any matter of this kind, I think you said his vanity would induce him to boast of it?—A. Yes. He would leak, sure. Some one of those men would have leaked.

Q. Were you with the command at Fort Niobrara?—A. I was not; no, sir.

Q. At Fort Meade? That is near Sturgis?—A. At Fort Meade!

Q. Yes.—A. I never was at Fort Meade, sir.

Q. You never were there with the command?—A. No, sir.

Q. Do you know, as a matter of history, of a midnight attack by members of the Twenty-fifth Infantry on the town of Sturgis, near Fort Meade?—A. I recall something of the kind.

Q. Yes; in which it was alleged that from ten to twenty men had gone out, and where a man was murdered, from my remembrance of it. You recollect it?—A. Yes; I recollect there was something of that kind, sir. I do not know it specifically.

Q. You also recall, as a matter of history, do you not, that years afterwards, possibly in 1904, while the command was stationed at Fort Niobrara, there was a midnight raid, also?—A. I do not recall that, sir. No, sir; I do not remember. I was not there, and I do not recall it.

Q. But as connected with your regiment?—A. Yes, sir; it was. That is so, you may say.

Q. Was there any trouble the regiment had, that you know of, in Texas before their going to Brownsville?—A. Well, not trouble; but you had Captain O'Neil before you here, I believe, and he must have told you that there was a feeling against his command when it came to Laredo, and that it was afterwards amicably arranged, and at a public banquet, given there in honor of himself, one of the speakers said, "These are the best troops we ever had stationed here," and they applauded it. There was a feeling at first, but they conquered it.

Q. Do you know anything of the trouble of the command at Key West, Fla.?—A. I do not. I do not know the details of it.

Q. You heard of it?—A. I heard there was some trouble; yes, sir.

Q. Was that before or after you were in command?—A. That was in 1898; but at that time, as I recall it, I had been made brigadier-general of volunteers, and was commanding a brigade, away from the regiment.

Q. So that you were not there?—A. I do not recollect that I was, sir. I do not know of it specifically.

By Senator TALIAFERRO:

Q. Do you remember any of the particulars of the trouble at Key West, Fla.?—A. I do not; no, Mr. Senator. I just recall the fact that there was some trouble with a policeman.

Q. Do you recall that one of the men was arrested by a policeman in Key West, and confined in the jail, and that a detachment of forty or fifty armed men went and released him?—A. I do not know that absolutely, but have just a recollection of it, Senator, that there was something of that kind.

Q. You recall there was something of the kind?—A. Yes, sir; something of the kind.

Senator FORAKER. Has any testimony been offered before this committee about that?

Senator TALIAFERRO. None whatever. I am bringing it out now, Senator.

Senator FORAKER. That is a new subject. If you want to go into it, I will have a report on it and go into it. I do not know about it.

Senator TALIAFERRO. I was just asking him if he knew of it. He was giving the regiment a fine reputation, and the trouble at these other places had been spoken of, and I knew of this, and I thought I would ask him about it. I am willing to withdraw the question.

Senator FORAKER. I have no objection to its being gone into. I do not know whether any of these companies had anything to do with it.

Senator TALIAFERRO. I will be frank to say that no one of these companies that I know of which were at Brownsville was connected with the matter; but those concerned were companies of the Twenty-fifth Regiment.

The WITNESS. Mr. Senator, may I say to you that you could go over the history of any regiment in the United States service, from the Fifties up, and find that disturbances have occurred between the people of the towns and the posts. There have been disturbances. That necessarily follows.

By Senator WARNER:

Q. Were you at Fort Bliss, Tex., with your regiment, General?—A. I never served in Texas, sir.

Q. I find here among the messages of the President, in Senate Document 155, at page 352, a report signed by R. H. R. Loughborough, captain, Twenty-fifth Infantry. Do you remember him? This is addressed to the adjutant-general, department of Texas, San Antonio, Tex., and reads as follows:

FORT BLISS, TEX., February 19, 1900.

ADJUTANT-GENERAL, DEPARTMENT OF TEXAS,
San Antonio, Tex.

SIR: I have the honor to report that some time during the night of 16th to 17th instant a number of men of Company A, Twenty-fifth Infantry, took rides from the arms racks and went to the city jail of El Paso, Tex., where two soldiers were held for trial by the city authorities on charge of drunk and disorderly, fired into the city jail, killing one policeman on duty there. Corp. James W. Hull, Company A, Twenty-fifth Infantry, was killed. The noncommissioned officer in charge of barracks permitted the keys of the arms racks to get out of his possession. It is believed now that he was one of the party.

As soon as I learned of the outrage (7 o'clock the 17th), the whereabouts of every man was ascertained, the arms and all ammunition were secured and placed under lock and key, and every precaution taken to prevent any soldier leaving the limits of the post.

It is needless to say that I am doing everything in my power to find the guilty parties. Believe I have the leader.

The civil authorities, both city and county, have been very courteous and considerate, and have accepted my assurances that I will do all in my power to bring the guilty parties to justice. I will report by wire whenever necessary.

Very respectfully,

R. H. R. LOUGHBOROUGH.

Captain, Twenty-fifth Infantry, Commanding.

Q. Do you remember him?—A. Loughborough?

Q. A captain of the Twenty-fifth. This is in a report signed by Charles McKibben, colonel Twelfth Infantry, commanding. This was in February, 1900. You were not there with the command at that time?—A. No, sir; no. I was in the Philippines.

Q. You have noted these instances, have you not, cited in this document, No. 155, reported in this case, where the disturbances occurred of the Twenty-fifth Infantry?—A. Yes, sir; casually.

Q. Would there be any difference as to the discipline of the different companies of the regiment?—A. Some companies were better than others?

Q. Yes.—A. Oh, yes; that necessarily follows. That is so in all regiments.

Q. Well, Company A was a good company, was it not?—A. Who was the captain of that company? Not Loughborough. Loughborough was of Company B in my time.

Q. It does not give the name of the captain of Company A.—A. I had Companies B, G, H, and F with me, at Fort Missoula, specially, most of the time. Of course I inspected the other companies. I do not recollect about A Company especially, excepting as is ordinarily the practice with the colonel; they identify the company with the captain of it.

Q. Was there any company in that regiment that you would have picked out as an insubordinate company, and capable of going out and shooting up a town?—A. No, sir.

Q. Or as capable of committing such an offense as I have mentioned here?—A. No, sir.

Q. If you had known anything of that kind and character, you would say it was as liable to occur with one company of the regiment

as with another company?—A. No, sir; there might be a difference. For instance, H Company, I recall—Captain Hodges's company—would be a special character of men, and an especially good company. The company reflects the character of its captain. There is no department of the service where an officer marks his characteristics more definitely than when he is commanding a company—captain of a company.

Q. And that is peculiarly true of a colored company, is it not?—

A. I do not know that, sir. That is a rule that would be applied to all companies.

Q. Pearl M. Shaffer seems to be given as captain.—A. S-h-a-f-e-r?

Q. It is S-h-a-f-f-e-r.—A. I do not recall him at all, sir. I do not know his name.

Senator LODGE. He was captain in 1900.

Senator WARNER. I see that he was appointed in April, 1904, General. That was my mistake.

The WITNESS. That was after my time.

Senator WARNER. Certainly. I did not notice that.

The WITNESS. You know that now captains are promoted into different regiments, and they are all mixed up.

By Senator WARNER:

Q. The colored soldier is apt to resent an implied insult?—A. The colored soldier is apt what?

Q. To resent an implied insult to them, an imposition on them, the same as anyone else?—A. Well, yes; but I think they are the most patient people I know of on God's green footstool, to suffer and not resent it. Pardon my expression, sir. That does not answer your question.

Senator WARNER. That is all right, General. I think those are all the questions I want to ask.

By Senator FORAKER:

Q. General, you have been asked about a number of shooting affrays that men of the Twenty-fifth Infantry are shown by the record to have participated in. I will ask you whether or not you are familiar with what the record discloses as to whether or not the guilty parties were, in all those cases, easily ascertained and brought to punishment? Are you familiar with that fact or not?—A. I am not familiar with it, sir; but I imagine, as the Senator read there, Loughborough discovered the men immediately. He thought he had the guilty ones.

Senator WARNER. He thought he had the leader, I believe he said.

The WITNESS. Yes, sir.

Senator WARNER. I did not go into that.

Senator FORAKER. No.

By Senator SCOTT:

Q. Before you go off the stand I want to ask you what character Major Penrose has as an officer of the Army?—A. He has an excellent character, sir, so far as I know. I never served with him.

Q. What about Captain Macklin? Did you know him?—A. I did not, sir.

Q. Did you know Captain Lyon?—A. Very well, and a better officer is not in the service—a more truthful man, more honorable and

straightforward. He served with me in the Philippines and also at Fort Missoula. A man, every inch of him, and as fine an officer as is in the Army.

Q. Did Lieutenant Lawrason come into the Army after you left the regiment or before?—A. I do not know him, sir. Macklin I do not know.

By Senator BULKELEY:

Q. Now, General, you were asked some questions in regard to your familiarity with the affair at Sturgis, near Fort Meade, with which this regiment was connected. Are you familiar with any of the conditions there or the report of General Terry, who commanded there?—A. I am not, sir. I do not know one of the details.

Q. I will ask to have printed in connection with the testimony of this witness at this point the report of General Terry upon the affray at Sturgis, near Fort Meade, which is found at page 328 of part No. 1 of Senate Document 155, and also the comments of the Secretary of War, as found at page 331 of the same volume.

(The documents referred to are printed here in the record, as follows:)

HEADQUARTERS DEPARTMENT OF DAKOTA.

Fort Snelling, Minn., November 10, 1885.

Respectfully returned to the Adjutant-General of the Army, through the headquarters of the Division of the Missouri.

The inclosed letter is, in the main, a just and temperate account of the occurrences at Sturgis City and Fort Meade, of which it speaks. I should take exception to but one of the statements which Mr. Caulfield makes. He states, as an ascertained fact, that "Doctor Lynch" was assassinated by a colored soldier. Doubtless he is fully convinced of the truth of this statement; but I submit that the inclosed copy of a report from Colonel Sturgis of the testimony given before the coroner's jury impaneled to determine the cause of Doctor Lynch's death shows that while a case of grave suspicion was made out against the soldier Hallon, the evidence was by no means conclusive. Of course, since the brutal murder of Hallon by the mob of Sturgis City, it has been impracticable to determine the question of his guilt or innocence. I inclose a copy of the proceedings of a board of officers convened by order of Colonel Sturgis to inquire into the facts connected with the killing of Bell. The conclusions of the board confirm the statements of Mr. Caulfield.

It is not probable that all the persons who were concerned in the murder of Bell will be detected and punished. Four men have been arrested, and if the evidence against them be sufficient to establish their guilt they will, without doubt, be confined and tried. In their cases the machinery of the law will act speedily.

I do not recommend the removal of the colored troops from Fort Meade. It is not alleged that they, as a body, have committed any crime or have been guilty of any disorder. Certain men belonging to one of the companies are accused of a most serious crime, but there is nothing to connect with it the other men of their company or any of the men of the other companies. There is no evidence to show that the peace of Sturgis City, in the future, is threatened by any of them. I do not believe that it is seriously threatened by them.

I have had much experience with colored troops, and I have always found them as well behaved and as amenable to discipline as any white troops that we have. The characteristic submissiveness of their race is manifested in the readiness with which they yield to military control.

They are much more temperate than our white troops, and crime and disorders resulting from intoxication are comparatively rare among them.

The situation at Fort Meade is an unfortunate one. It is very undesirable that a military post and a frontier town should stand in such close proximity to each other as Sturgis City and Fort Meade do; unfortunate possibly for the town, unquestionably unfortunate for the post. But the post was established before the town was founded and I do not think that there would have been any town but for the post. Still the evils which result from this juxtaposition are not absolutely unavoidable.

The military authorities at the post will, I am sure, do their part to prevent the commission of crime, and if the civil authorities of the town will do theirs as well there will be no occasion whatever for apprehension.

I take it for granted that in the Territory of Dakota the keeping of houses of ill fame is prohibited by law, but notwithstanding the law there are in the town two brothels which would appear to have been established for the express purpose of catering to the taste and pandering to the passions of the colored troops, for they are "stocked" with colored prostitutes—negresses and mulattos.

They are, I am assured, places of the vilest character, and it was at one of them that the affray of September 19 occurred. Had no such place existed it is most improbable that any affray would have occurred, and if the people of Sturgis City suffer such places to exist they must, I submit, expect the natural result of their existence—frequent brawls, and from time to time the commission of the most serious crimes. And I submit further that until the people of the town shall have suppressed these dens, which equally debauch the troops of the post and threaten their own safety, they will not be in a position to ask the Government to change its garrison.

ALFRED H. TERRY,
Brigadier-General, Commanding.

[Fifth indorsement.]

HEADQUARTERS DIVISION OF THE MISSOURI,
Chicago, November 14, 1885.

Respectfully returned to the Adjutant-General of the Army.

J. M. SCHOFIELD,
Major-General, Commanding.

[Sixth indorsement.]

HEADQUARTERS OF THE ARMY,
Washington, November 21, 1885.

Respectfully returned to the Secretary of War, inviting his attention to and concurring in the remarks of the commanding general, Department of Dakota.

P. H. SHERIDAN,
Lieutenant-General.

[Inclosure.]

FORT MEADE, DAK. T., *October 28, 1885.*

ADJUTANT-GENERAL, DEPT. DAKOTA,
Fort Snelling, Minn.:

Doctor Lynch was killed by shooting about 11 p. m., August 22, whilst reading in his office, the assassin firing through closed office door. Supposed cause, jealousy of colored woman.

Evidence before coroner's jury circumstantial; that of Private Bluford. A company, Twenty-fifth Infantry, the most damaging given against Corporal Hallon, was to effect that he met Hallon at 10.30 p. m. at Abe Hill's saloon, Sturgis City; Hallon asked witness to drink and went into alley and drank from bottle; met Hallon next in dance hall (Abe Hill's); took witness into alley and persuaded him to change blouses. After blouses were changed Hallon told witness to meet him at point on outskirts of town, toward Meade.

Separated in alley ten minutes thereafter to meet at point designated. Hallon stoned his dog to make him follow witness. Witness met Private Martinez, A, Seventh Cavalry, on his way to place of meeting, and tried to borrow pistol from him, saying he feared trouble with Hallon, whose conduct was suspicious. After being at place fixed for meeting ten minutes, heard shot in town and walked toward town.

Met Corporal Raymond, Seventh Cavalry. Then waited a moment and heard voice calling him. Recognized Hallon's voice. This at place of meeting, about five minutes after shot was fired. Upon meeting changed blouses. Hallon sitting on his own and refused to say what trouble was. Witness noticed fix-shooter at this time in Hallon's pocket. Went back to town with Hallon. On way Hallon pulled out pistol and seemed to be loading it, saying he feared trouble. On reaching town found Lynch had been killed. While in jail with Hallon, latter told him what to swear to, and to stick to his story, which was not that given to jury. Private Martinez, A Troop, and Corporal Raymond, A Troop, corroborated Bluford in that they had met him at place fixed for his meeting Corporal Hallon, and at time described by Bluford.

That witness was wearing a noncommissioned officer's blouse, and had conversation with Martines about pistol. Private Rann, A Company, testified to loaning of pistol identified as one carried by Hallon night of 22d; loaned it night of 21st and 22d, Hallon returning it to him on morning of 23d, after murder. All chambers loaded when loaned and empty when returned. Carried same size and weight of bullet as bullet which killed Lynch.

Corporal Hallon was arrested on 23d August, on warrant duly served, and taken from jail in Sturgis City on night of 25th August and hanged.

Jury found that Lynch came to his death at hand of Hallon. This verdict and evidence all information known to be in possession of mob which hanged Hallon.

STURGIS, Commanding.

WAR DEPARTMENT.

Washington, December 22, 1892.

SIR: In reply to your letter of the 27th of September last, commenting upon the outrages committed at the town of Sturgis, Dak. Ter., by colored soldiers of the Twenty-fifth Infantry, stationed at Fort Meade, and suggesting the removal of the colored troops to some other post and the substitution of white soldiers in their place, I have the honor to invite attention to the inclosed copy of the report of Gen. A. H. Terry, commanding the Department of Dakota, to whom the matter was referred, and to say that both the Department and the Lieutenant-General of the Army concur in the views as expressed therein by General Terry.

Very respectfully, your obedient servant.

WM. C. ENDICOTT,
Secretary of War.

Hon. B. G. CAULFIELD,
Deadwood, Dak. Ter.

By Senator BULKELEY:

Q. Are you familiar enough with the circumstances to know that there was no difficulty in securing the testimony of the comrades of the accused man of the Twenty-fifth Regiment, in that case, which was a case of murder?—A. I do not recall specifically, sir, but just indistinctly, that they investigated the case and found out all about it; but I think, if I remember rightly, that they punished some of the guilty men. I just have an indistinct recollection of it; but I do not want to testify here, under oath, positively, about anything that I do not know.

Q. I want to read to you an extract from the report of Colonel Sturgis:

Corporal Hallon was arrested on 23d August, on warrant duly served, and taken from jail in Sturgis City on night of 25th August and hanged.

Jury found that Lynch came to his death at hand of Hallon. This verdict and evidence all information known to be in possession of mob which hanged Hallon.

This was a mob of the citizens of Dakota, who took one of these colored men from jail, who was charged with a crime, and hung him. Does that refresh your recollection in regard to the transaction at all?—A. No, sir; it does not.

Senator BULKELEY. Well, no matter.

Senator FORAKER. It happened twenty-five years ago.

Senator BULKELEY. Yes. I thought possibly the fact that in the case of a man charged with a crime there was no difficulty in ascertaining on the evidence of his comrades of the Twenty-fifth Infantry who was the guilty party might be relevant. And he was turned over to the civil authorities, and was taken from the jail by a mob of white men and hanged.

Senator FORAKER. I want to put in evidence an extract from the official report of the commanding officer at Fort Bliss, Tex., on the

disturbance at El Paso, Tex. This is the report of Chambers McKibben, colonel Twelfth Infantry, commanding. This is the report which Senator Warner called attention to, and I want to offer the entire report.

Senator WARNER. I simply called attention to the extract that I read.

Senator FORAKER. I would like to have the whole of Colonel McKibben's report inserted.

Senator WARNER. I did not put it in because I did not want to encumber the record.

Senator FORAKER. I want to put it in here for reference.

Senator WARNER. Put it all in.

(The report referred to is here inserted in the record in full, as follows:)

Affair at El Paso, Tex., February 16-17, 1900.

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, February 21, 1900.

The ADJUTANT-GENERAL, U. S. ARMY,
Washington, D. C.

SIR: I have the honor to furnish herewith, for the information of the Department, the following report received from the commanding officer, Fort Bliss, Tex., on the recent disturbance at El Paso, Tex.

FORT BLISS, TEX., February 19, 1900.

ADJUTANT-GENERAL DEPARTMENT OF TEXAS,
San Antonio, Tex.

SIR: I have the honor to report that some time during the night of 16th to 17th instant a number of men of Company A, Twenty-fifth Infantry, took rifles from the arms racks and went to the city jail of El Paso, Tex., where two soldiers were held for trial by the city authorities on charge of drunk and disorderly, fired into the city jail, killing one policeman on duty there. Corp. James W. Hull, Company A, Twenty-fifth Infantry, was killed. The noncommissioned officer in charge of barracks permitted the keys of the arms racks to get out of his possession. It is believed now that he was one of the party.

As soon as I learned of the outrage (7 o'clock the 17th) the whereabouts of every man was ascertained, the arms and all ammunition were secured and placed under lock and key, and every precaution taken to prevent any soldier leaving the limits of the post.

It is needless to say that I am doing everything in my power to find the guilty parties. Believe I have the leader.

The civil authorities, both city and county, have been very courteous and considerate, and have accepted by assurances that I will do all in my power to bring the guilty parties to justice. I will report by wire whenever necessary.

Very respectfully,

R. H. R. LOUGHBOROUGH,
Captain, Twenty-fifth Infantry, Commanding.

Very respectfully. •

CHAMBERS MCKIBBEN,
Colonel Twelfth Infantry, Commanding.

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, March 1, 1900.

The ADJUTANT-GENERAL, UNITED STATES ARMY,
Washington, D. C.

SIR: I forward herewith report of the investigation of the recent troubles at El Paso, Tex., made by Lieutenant-Colonel Roberts, acting adjutant-general of the department, to which attention is respectfully invited.

There seems to have been no indications from which any disorder of the

kind could have been anticipated and certainly no excuse for the assault on the jail which resulted so unfortunately, and it is also probable that the parties connected with it had no intention of adding murder to the crime of assault.

The incident, however, shows that at all posts in this department garrisoned by single companies of colored soldiers similar disturbances are liable to occur without warning, due to fancied wrongs and the effort to take matters into their own hands. In the present instance there can be no possible excuse offered and it can not even be suggested that the arrest of Corporal Dyson was not warranted.

The incident also emphasizes the need for a full complement of officers at all one (1) company posts. One officer can not alone properly and efficiently administer the affairs at these posts and at the same time pay the attention to the instruction and discipline of their companies, consisting so largely of recruits, with noncommissioned officers of comparatively short service and insufficient experience, which is absolutely necessary.

Captain Loughborough is an officer of great experience, and one of the most conscientious and efficient officers in the Army, but the nature and scope of his duties prevent his being so closely in touch with his men as is essential to best results with this class of troops, which, unquestionably, require stricter discipline and more constant oversight than white troops. This is largely due to the fact that since the increase in size of the companies recruits have been largely drawn from sections where colored men have less independence of character and freedom from control, and less care has been taken in their selection.

There is unquestionably a very strong prejudice throughout all the old slave States against colored troops, and this is quite a separate feeling from the ordinary race prejudice, which is perhaps less at El Paso than at other border towns in this department. A colored man in uniform represents authority, and this idea suggests superiority, which is bitterly resented. It is not because the colored soldier is disorderly—for, as the rule, they behave better than white soldiers, and, even when drunk, are less troublesome to manage—but because they are soldiers.

Regiments of colored troops have been organized in accordance with acts of Congress and are part of the military establishment, and it can not be expected that the Government of the United States shall accept dictation in deciding upon the use to be made of them or their stations.

In this connection I desire to call attention to the statement in Lieutenant Colonel Roberts's report with reference to the published article in an El Paso newspaper giving an alleged interview with Hon. Moses Dillon, United States collector of customs. This is not the only occasion which has come to my knowledge in which expressions of this kind have been indulged in by Federal officials. While it is impossible to protect colored soldiers from insults from the hoodlum class or from unjust discrimination in border towns, where the right of drunken cowboys and other white men to "shoot up the town" upon occasions is tacitly recognized, it is submitted that the Government is entitled to expect that the utterances of Federal officials should tend to allay rather than to intensify local excitement and prejudice, and especially when they are, presumably, politically in sympathy with the present Administration.

It is to be regretted that it is impossible to fix responsibility more definitely upon the participants, but it is believed that the investigation which is being conducted will eventually disclose all the guilty parties.

The precautions taken by Captain Loughborough to prevent further disturbance seem to be all that are possible.

Very respectfully,

CHAMBERS MCKIBBIN,
Colonel Twelfth Infantry, Commanding.

Senator FORAKER. I will read two extracts from these reports, at pages 353 and 356:

There is unquestionably a very strong prejudice throughout all the old slave States against colored troops, and this is quite a separate feeling from the ordinary race prejudice, which is perhaps less at El Paso than at other border towns in this department. A colored man in uniform represents authority, and this idea suggests superiority, which is bitterly resented. It is not because the colored soldier is disorderly—for, as a rule, they behave better than white soldiers, and, even when drunk, are less troublesome to manage—but because they are soldiers.

I will read also from the official report of Lieut. Col. C. S. Roberts, at page 356, as follows:

It appears proper in this report to call attention to the existence at El Paso, as well as in all border towns in the State, of a feeling of hostility, or prejudice, or say the least, against colored men in uniform. I doubt if this obtains, at least in El Paso, to the same extent as at Laredo and Rio Grande City, as a race prejudice, as negroes are largely employed as servants or laborers; but against colored men as soldiers the feeling is perhaps even stronger.

That is all.

By Senator TALIAFERRO:

Q. General, you state, I believe, that you would believe the men of the Twenty-fifth Regiment under oath in their own defense?—A. I would. I do, sir.

Q. It seems to me that that is a very broad statement.—A. I meant by that to say that that is the general character of a man of the Twenty-fifth Infantry—I would believe him—but, of course, where I knew a man to be worthless I would not believe him.

Q. You do not mean, I fancy, that if one or more men of the Twenty-fifth Infantry were charged with crime, and reputable eye-witnesses should testify as to their guilt, you would take the word of the accused in preference to the testimony of disinterested people as to the occurrence?—A. I would have to know the people who were disinterested—what they were—as to their character.

Q. I said reputable people—reputable witnesses.—A. Yes, sir.

Q. People of standing and reputation for honesty and for truthfulness?—A. Well, let me tell you, Mr. Senator. I can not answer that specifically. If you would allow me to say, if they said they could distinguish between a white man and a colored man in uniform, looking out of a window into a street in a dark night, I would say they did not know what they were saying. I would believe the soldier under those circumstances preferably to the citizen.

Q. A day or two ago a member of the Twenty-fifth Infantry by the name of James W. Newton was testifying before this committee, and Senator Foraker propounded the following question to him (page 2974):

Q. Now, Mr. Newton, do you know Sergeant-Major Taliaferro, of the Twenty-fifth Infantry?—A. Yes, sir.

Q. He testified before this committee. At page 1552 the following report of his testimony is found:

"Q. You heard of this striking of Newton, didn't you?—A. Yes, sir.

"Q. Did you pay any attention to that?—A. No, sir; I did not.

"Q. Why not?—A. Because Newton was a man who drank to excess, and I thought he was liable to get into trouble most any place, at any time, and I merely thought that he had been downtown drinking and got into a fight down there and got beat up.

"Q. That was his reputation, was it?—A. Yes, sir; that was my opinion of it."

A. Is this what Sergeant Taliaferro testified?

Q. I read from the record. This is what Sergeant Taliaferro said.—A. Said about Newton?

Q. About Newton. Senator Foraker, going on, said:

Now, in view of that testimony, I will ask you to state, Mr. Newton, whether or not you were in the habit of drinking when you were a member of this regiment, and whether you drank to excess while you were a member of the Twenty-fifth Infantry?—A. Yes, sir; I drank, but not to an excess, sir.

Now, I want you to tell me which of those men of that regiment you would believe.—A. Oh, Sergeant Taliaferro, of course I would believe.

Q. There is a case where you do not believe a member of the Twenty-fifth Infantry in his own defense?—A. No, I would not, if the noncommissioned officers should give him a bad report, and I knew of his being under discipline and a drinking man. I do not think a drunkard is reliable in what he says. I do not think he ever knows when he tells the truth. I would believe Sergeant Taliaferro rather than Newton.

Q. So that you would not believe a member of the Twenty-fifth Infantry in his own defense?—A. Simply because he was a member of the Twenty-fifth Infantry?

Q. Yes.—A. Oh, no; I do not mean that.

Q. And you would not believe his statement in his own defense against the testimony of a great many eyewitnesses to his guilt, who were reputable people?—A. Well, it would depend upon my knowledge of the man.

Q. On your knowledge of the men of the Twenty-fifth Infantry?—A. Of the soldier under my command, that I had had under my observation. I understand your question as leading up to cross-questioning me on my statement about believing the men of the Twenty-fifth Infantry. I spoke then, if I may explain it, in a general sense. There are communities which bear a respectable reputation, and members of that community you believe, that there are individuals you find that are not to be believed. That is the idea I try to convey.

By Senator FORAKER:

Q. You mean you would apply the same tests to these colored soldiers that you would to a white man?—A. I would what?

Q. You would apply the same tests in determining whether you would believe them that you would apply to a white man?—A. Certainly.

By Senator TALIAFERRO:

Q. And you mean that you would go no further in believing these men than you would believe white men under similar circumstances?—A. Oh, no; not if they had the same reputation.

TESTIMONY OF LIEUT. HARRY G. LECKIE, U. S. ARMY—Recalled.

Lieut. HARRY G. LECKIE, U. S. Army, a witness previously sworn, being recalled, testified as follows:

By Senator SCOTT:

Q. Lieutenant, you have been sworn and still regard yourself as being under oath?—A. Yes, sir.

By Senator FORAKER:

Q. Lieutenant, when you testified before this committee, you testified about finding a bullet, or boring a bullet out, I believe, from a post in front of Crixell's saloon?—A. Yes, sir.

Q. And stated that you did not have with you at the time the lead

shavings that you secured. Will you state to the committee whether you have since found them?—A. Yes, sir.

Q. And whether you have them with you?—A. Yes, sir; I have them with me.

Q. Will you state where you found the same?—A. When the regiment was ordered to the Philippines, I packed up all my property, except my hunting chest. In that hunting chest I had a corkscrew, and such things as that, and one day I happened to want this corkscrew that I had taken down on this hunting trip at Brown, and in opening the corkscrew the lead of the bullet dropped out where I had put it in there and forgotten it.

Q. In what way did you put it up? Was it wrapped up or otherwise?—A. It was in a cigarette paper—in a paper like we use in making cigarettes.

Q. Have you got it with you now?—A. Yes, sir.

Q. Will you please exhibit the same?

(Witness produced some particles of lead, contained in a paper.)

Q. I understand you bored this out of the post into which it had entered?—A. Yes, sir.

Q. With a brace and bit furnished you by Mr. Crixell, of Crixell's saloon?—A. With a brace and bit furnished me by T. Crixell.

Q. Joseph Crixell has testified, since you were on the stand, that you said his brother told him, as he remembered, that there were some pieces of a metal jacket also bored out with that lead. Will you state whether that is true?—A. There was no metal jacket with it, sir. Everything cut out of the post is right in that paper, excepting—

Q. Was there anything—

Senator TALIAFERRO. He did not finish his answer.

A. With the exception of the lead that dropped in the shavings. We got all the shavings and separated as much lead as we could, but there was no metal jacket in it. That was an entirely lead bullet.

Q. Was there any metal jacket connected with the bullet—I mean was your boring of such a character that it would have disclosed a metal jacket, if there had been one there?—A. Yes, sir; I bored the hole about a half again larger than the bullet hole itself, clear through the post, and cut everything out.

Q. Cut everything out?—A. Cut everything out; yes, sir.

Q. And then sorted out what was clean and fresh and brought it here?—A. Yes, sir.

Q. And that was in the presence of a number of witnesses, was it?—A. That was in the presence of Mr. Matlock and Mr. T. Crixell, and I do not know the names of any other parties, but there were several others present.

Q. Did anybody at that time who was present and saw it question but that it was a lead bullet?—A. No, sir; Mr. T. Crixell acknowledged to me at the time that there was no steel jacket connected with the bullet.

By Senator TALIAFERRO:

Q. Do you mean he acknowledged it or he stated it?—A. He stated to me—the way the thing came up, I was in the saloon and they were talking about the shooting of the 13th of August, and some one turned to me and he said, "I will take you out and show you one of

the bullet holes and also the bullet is in there. It has never been taken out." So he took me out and showed me this place, and I told him, "Why, that is not a .30-caliber rifle. The hole is too large." So there was some argument about it, and I tried to cut it out with a pocketknife and could not do it, and then he went and got a brace and bit and we bored it out, and I showed it to him there and he stated right there and then that there was no steel jacket connected with the bullet.

Q. Is there any doubt about this being the same identical lead that you bored out of that hole in question?—A. No doubt at all, sir. It has never been in anyone's hands but my own since that time. I have had control of it.

Q. I will ask you whether you have a Springfield cartridge? I had one the other day that I had sawed the nose off—A. No, sir; I do not believe I have.

Q. It seemed to me that I showed it to you. Have you got that?—A. No, sir; I have not got it. Here is a bullet that I took out of a Springfield.

Q. I requested you, did I not, to take out the filling of a Springfield bullet?—A. Yes, sir.

Q. You did that, did you?—A. Yes, sir.

Q. Have you got it there?—A. Yes, sir [producing a specimen].

Q. Is this the lead of the Springfield bullet?—A. That is the lead, sir, and there is the jacket.

Q. Since I asked you to do that, General Crozier has testified and has given us the weight of the jacket and the weight also of the lead. I will ask you whether or not the lead that you have taken out—that is, the filling of the Springfield bullet—is the same as this lead which you got out of that post?—A. No, sir; it is a great deal harder.

Q. The Springfield lead is?—A. Yes, sir.

Q. Would an analysis of that by a chemist develop that fact?—A. Yes, sir; it should do it.

Senator FORAKER. I ask that the lead produced by Lieutenant Leckie, and testified by him as having been taken from that post, may be analyzed and a report made by some metallurgist upon whom we can agree. I do not know to whom to apply. Does any member of the committee suggest anyone?

Senator WARNER. Let us get through with the witness first.

Senator FORAKER. I want to know that as preliminary to something else. [To the witness.] What would be the effect of dropping that lead into acid? Are there any dissolving acids?

A. Yes, sir; if it was all lead, it would dissolve.

Q. Have you ever had any experience as a metallurgist in dissolving ores or minerals?—A. I have—lead and zinc, sir.

Q. Or separating?—A. I have in lead and zinc ores, sir.

Q. Have you had enough to be able to tell us whether or not this lead that you have thus taken out could be dissolved and separated from any other composition?—A. I think so, sir.

Q. What acid would do that?—A. I can not call the name of the acid right now, Senator.

Q. But you could get an acid, could you?—A. I have used it lots of times, sir.

Q. And treat this lead in the presence of the committee, if we do not agree upon some metallurgist to make the analysis?—A. Yes, sir;

I think it would be better, though, for you to have some expert to do that.

Q. You do not profess to be an expert?—A. No, sir.

By Senator TALIAFERRO:

Q. Have you tried any of that acid on any of this lead?—A. I have dropped a piece of that in acid—a shaving of it.

By Senator FORAKER:

Q. Dropped what?—A. Dropped a piece of the shaving in there.

Q. What was the result?—A. I found it to be about one part tin to about twenty or twenty-two parts lead.

By Senator TALIAFERRO:

Q. Was that out of the lead you extracted from the post?—A. I used three pieces—three small pieces—and some of it dropped in cutting it out, sir.

By Senator FORAKER:

Q. Some question has been asked here as to what authority you had for going to Brownsville to make the investigations, about which you testified when you were last on the stand.—A. Yes, sir.

Senator FORAKER. In response to that I offer the following in connection with the lieutenant's testimony, after he has identified it. [To the witness.] Look at the order I hand you and state whether or not that is the order referred to, under which you went to Brownsville? Read the letter first and then you will see.

Senator LODGE. I suggest that it ought to be read aloud.

By Senator FORAKER:

Q. Read the letter in full, Lieutenant.—A. (Reading:)

WAR DEPARTMENT,
THE ADJUTANT-GENERAL'S OFFICE,
Washington, June 7, 1907.

Hon. J. B. FORAKER,
United States Senate.

MY DEAR SENATOR: In response to your telegraphic request of this afternoon for a copy of the order sending Lieut. H. G. Leckie from Fort Sam Houston to Brownsville, in March, 1907, for the purpose of investigating the affray of August 13, 1906, at Brownsville, I have the honor to transmit herewith a copy of Special Orders, No. 65, dated Headquarters Department of Texas, March 19, 1907.

Paragraph 1 of that order is the one to which your telegram relates.

Very respectfully,

F. C. AINSWORTH,
The Adjutant-General.

Q. Now read the order.—A. (Reading:)

SPECIAL ORDERS, }
No. 65.

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, Tex., March 19, 1907.

1. The journey performed by Second Lieut. Harry G. Leckie, Twenty-sixth Infantry, from Fort Sam Houston, Tex., to Brownsville, Tex., and return, March 14 to 16, 1907, in compliance with the verbal order of the department

commander, for the purpose of obtaining certain information in regard to the Brownsville incident. is approved and made of record as having been necessary in the military service.

By command of Brigadier-General McCaskey.

C. J. CRANE,
Lieutenant-Colonel, Adjutant-General.

Q. That order recites that you went there pursuant to a verbal order?—A. Yes, sir.

Q. At what time was that order given to you?—A. The verbal order?

Q. Yes.—A. It was given to me about 9 or half past 9, sir, the night before I went to Brownsville.

Q. And did it require you to go early in the morning?—A. I was instructed to go out on the morning train, sir.

Q. That is the reason why there was no written order?—A. Yes, sir. It was after hours, sir; after office hours.

Q. Since you were on the stand Mr. Herbert Elkins has testified as a witness, and among other facts stated by him was this: That he saw two shots fired into the front of the Cowen house, that fronts on Fourteenth street; that is, that some soldiers, as he said they were, were standing under his window, which was in the upper story of the Leahy Hotel; he was looking out down upon them; that he saw them fire into the Cowen house. I will ask you whether or not you made a careful inspection, under your orders, of the bullet holes in the Cowen house, and whether or not there were any shots fired into the Cowen house from the Fourteenth street side?—A. I made a very careful inspection and could find no shots fired into the Cowen house from the Fourteenth street side.

Q. They were all fired from the alley?—A. All fired from the alley, sir. If such shots were fired, they did not strike the house.

Q. State what your instructions were, if you had any, on the point as to examining distances and as to examining those different points that had been testified about, by night as well as by day.—A. I was instructed, sir, to inspect the holes made by the bullets, and also the course of the bullets, and measure distances in regard to where the shots must have been fired from, and also as to what of the different barracks could be seen from the Leahy Hotel, both in the day and at night.

By Senator TALIAFERRO:

Q. From whom were these instructions?—A. They were from the department commander's aid, sir—General McCaskey's aid, Lieutenant McCaskey.

By Senator FORAKER:

Q. He is the officer who delivered to you the verbal order to go to Fort Brown, is he?—A. Yes, sir.

Q. And he told you what you were to go for?—A. Yes, sir.

Q. Have you any interest whatever in this controversy, Lieutenant?—A. Why, no, sir.

Q. Have you at any time had any interest in it of any character?—A. Why, no, sir; no more than to perform my duty as ordered as an officer of the Army, sir.

By Senator SCOTT:

Q. I have been requested to ask you in what State were you born?—
A. In the State of Virginia, sir.

Q. And from what State did you go into the Army?—A. Virginia, sir.

Q. Through an examination from civil life?—A. Yes, sir.

By Senator TALIAFERRO:

Q. From what part of Virginia?—A. Lynchburg, sir; about 176 miles south of here.

Q. Were you educated for the Army?—A. No, sir; I was not educated at West Point, if that is what you mean, sir.

By Senator FORAKER:

Q. When you were last on the stand you testified as to the instructions given you as follows (I read commencing at the bottom of page 1894):

I was instructed to see what parts of the barracks I could see from the different windows of the Leahy Hotel and to trace the shots that went into the Cowen house, and to examine the lights and see what I could tell at night, and how far the light would throw, and how much light there was, and how far a person could be recognized at night, and to trace the shots fired into the Western Union office.

Now state whether or not you executed those instructions?—A. I did.

Senator WARNER. Has he not been all over that?

By Senator FORAKER:

Q. I want to know whether you executed those instructions, and then I am going to ask you with specific reference to this testimony.—
A. I did, sir.

Q. Did you go into the upper story of the Leahy Hotel and look out from the windows?—A. Yes, sir.

Q. What did you try to ascertain, and what was the result?—A. I tried to ascertain how much of the barracks I could see, how much of the four barracks. The only barracks that I could see at all—that is, the porches or anything except just maybe the tops of the roofs—I don't remember about that—was B barracks.

Q. How much of B barracks could you see?—A. From the room, the window that Mrs. Leahy was in that night—that she told me she was in—I could see about two-thirds of the upper porch of B barracks, beginning about 10 feet from the east corner of B barracks and running within about 10 feet of the west corner.

Q. You could see the central part of B barracks?—A. Yes, sir.

Q. Was there a tree there at that time? Senator Bulkeley wants me to ask you to point out, from this picture which I show you, which is said to be a picture of the Leahy Hotel, which window it was that you looked out from?—A. This center window, sir; I looked out from all three of them. The one I had reference to was the center one.

By Senator BULKELEY:

Q. The one Mrs. Leahy looked out of, which was that, the center?—A. Yes, sir.

By Senator FORAKER:

Q. I understood her to testify that she looked out from the one next to Elizabeth street.

Senator LODGE. That is what she testified to.

A. I may be wrong about it, sir. I would not be too positive.

By Senator FORAKER:

Q. You looked out from all of them?—A. Yes, sir; I looked out from all of them.

Q. There is a picture of the Cowen house, is it not?—A. Yes, sir; that is the tree, between the Cowen house and the annex—an orange tree.

Q. Did not obstruct the view?—A. That obstructed the view, sir.

Q. How could you see the upper porch of B barracks, with a tree standing there?—A. I know that out of the window next to the alley I could only see about 10 feet of B barracks, but from the center window or the window next to Elizabeth street—I will not be positive which, one or the other—I could see nearly all of the upper porch. That tree did not interfere very much, because I was up higher than the tree.

Q. You were there in March?—A. Yes, sir.

Q. Were the leaves on the tree then?—A. Yes, sir.

Q. Still leaves there?—A. Yes, sir.

Senator LODGE. That was an orange tree.

By Senator FORAKER:

Q. This is picture No. 13, taken from the room in which Mrs. Leahy stood, showing the gallery at the back of the barracks?—A. Yes, sir.

Q. You had to look right through the leaves of the tree, did you not?—A. Yes, sir.

Q. That was in the daytime, when you could see that?—A. Yes, sir.

Q. Did you try to look through there in the nighttime?—A. I did, sir, but on account of the darkness I could see nothing.

Q. How dark a night was it when you looked?—A. As well as I remember, sir, it was a kind of a little moonlight night; not much moon.

Q. Was it a rainy night or a cloudy night?—A. No, sir; it was not rainy; it was not a rainy night. It was a starry night.

Q. A starlight night when you looked out?—A. A starry night.

Q. Could you see anything whatever of the barracks from either of the windows when you looked out?—A. No, sir; the only thing I could tell was just simply a dark outline, like a big shadow cast.

Q. Did you undertake to look out of the window that Mr. Elkins occupied, which, I think, according to the testimony, was the middle one?—A. Yes, sir.

Q. To see what you could see at night-time down in the alley?—A. I may be mistaken, Senator, but I think Mr. Elkins told me that he had the window next to the alley.

Q. Possibly.—A. And that Judge Parks had either the center room or the one next to Elizabeth street, and that Mrs. Leahy was in one or the other of those two.

Q. Whichever it was, did you look out of those windows?—A. I looked out of the window that Mr. Elkins told me that he occupied—the room.

Q. How far was it from his window out to this point, the center of the alley at Fourteenth street?—A. About 80 feet, sir; that is to where I judged that the men were standing that did the firing.

Q. According to his description?—A. Yes, sir.

Q. And according to what you observed as to the way the bullets entered the house?—A. Yes, sir.

Q. Could you or not, looking out there at nighttime, see anything?—A. I could not; no, sir; unless they had a bright light with them or something of that kind—an artificial light.

Q. I am assuming that there was no artificial light.—A. No, sir.

Q. Is there any artificial light there?—A. No, sir.

Q. You were instructed to make a special examination as to lights, were you not?—A. Yes, sir.

Q. And there are no artificial lights in the alley at all?—A. No artificial lights in the alley at all.

Q. And there were none when you looked out?—A. No, sir.

By Senator TALIAFERRO:

Q. How wide is that alley, Lieutenant?—A. Between 20 and 24 feet, sir.

By Senator FORAKER:

Q. It is marked on the map as 20 feet in width.—A. Yes, sir.

By Senator TALIAFERRO:

Q. How wide is Fourteenth street?—A. About 45 feet, sir.

Q. How far is this window from the corner of Fourteenth street and the alley?—A. I would not be positive, sir, but I think that window is about 30-some feet.

Q. From the alley?—A. Yes, sir.

By Senator FORAKER:

Q. You examined the bullet holes in the Yturria house, did you?—A. Yes, sir.

Q. Since you have testified Major Blocksom has testified in regard to that. State whether or not you examined to see whether or not, looking at the direction of the grooves and the holes made by the bullets, you could sight B barracks or either of the other barracks.—A. Well, I tried it with two bullet holes there at the Yturria house. If I may go to the map I think I can explain it better. It was right in here at the point indicated.

By Senator WARNER:

Q. You testified to all this when you were on the stand before?—A. Yes, sir.

By Senator FORAKER:

Q. And you would not change your testimony or modify it in any way now?—A. No, sir; but I should like to explain this, because I think there is some mistake about it, from the statement Major Blocksom made; and in justice to myself I should like to explain the location of the bullet.

Q. Very well, that is all right, Lieutenant. The only purpose I had in saying what I did was to answer the objection made by Senator Warner that you had gone into this once before. If you want to

make any explanation, in view of what Major Blocksom has said, of course we will give you that privilege.

Senator SCOTT. He ought to have that privilege.

Senator WARNER. Nobody objects to it.

A. Right near that point [indicating] is a tank and windmill supported on timbers, 4 by 6 or 6 by 6. The bullets that struck those timbers struck the face of the timbers. For instance, here is a timber, and the bullet struck right in the face of it. Here is B Company barracks [indicating]. If either one of the bullets that I examined myself came from B Company barracks they would have had to turn 90 degrees in the air.

Q. In order to enter?—A. In order to enter the 6 by 6 or 4 by 6 in the direction they did.

By Senator WARNER:

Q. You have pointed out B barracks as they are now?—A. Yes, sir.

Q. Do you say this map correctly represents the true position of the barracks?—A. I think so, Senator. B barracks may be a little too far from the wall, but not over 2 or 3 feet. Here is the walk along here.

By Senator HEMENWAY:

Q. Do you mean that the map properly represents B barracks? How about C?—A. Yes, sir; those barracks are correctly located, sir.

By Senator SCOTT:

Q. Lieutenant, as I recollect, it has been in evidence that this barracks is not in the right place; that the center of the barracks is nearer the end of this alley. What would be your opinion about that?—A. I think the barracks is located about right, now, sir. I think it is correctly located. My remembrance of it, sir, is that I could only see a corner of the roof of B Company barracks when standing down here on Fourteenth street.

By Senator WARNER:

Q. If I understand the evidence, here is the sidewalk, along what we call the east side of Elizabeth street.—A. Yes, sir.

Q. And that sidewalk extended goes right across what we call the barracks road, straight across, and comes to the end of B barracks. This comes down nearly to the center, you see, of this, and therefore B barracks would be farther east. Is that your recollection about it?—A. Yes, sir. This is the Western Union office here, and the corner of B barracks projects over the Western Union office. There is a plank walk comes along here. The map of the post itself is very nearly correct, but the map of the town is not correct. This line here, the street should come down more; but for that bullet to come from B barracks, B barracks would have had to be as high as C barracks.

By Senator FORAKER:

Q. The corner of B barracks projects beyond the line of the Western Union office, does it not?—A. Yes, sir.

By Senator TALIAFERRO:

Q. You say B barracks would have had to be as high as C barracks. What part of C barracks? How far up to take the place of C

barracks—how far would B barracks have to go?—A. B barracks would have to be up as high as the west corner of it.

Q. As the west end of C barracks?—A. Would have had to be as high as the west end of C barracks, which will be about 10 feet there.

By Senator FORAKER:

Q. Whether that map be correct or not, you made your investigation on the ground?—A. Yes, sir.

Q. And determined by reference to the barracks as you saw them?—A. Yes, sir.

Q. And the house and bullet holes, as you saw them, determined that the bullet could not have entered, if it had been fired from B barracks, without making an angle in its flight in the air before it struck?—A. If it had been fired from B barracks, before striking the Yturria house, it would have had to go across more to the north. It would not have gone up the road and turned about 90° and then entered the Yturria house.

Q. You made your examination on the ground?—A. Yes, sir.

Q. And made it under orders?—A. Yes, sir.

Q. And without any interest in it whatever?—A. No more, sir, than to perform my duty.

Q. Did you find any bullet hole in the Yturria house that could have been fired from either of the barracks?—A. Well, I did not find any bullet hole that could have been fired from B Company barracks. Now, as to whether it could have been fired from any other barracks, it would be impossible for me to say.

Q. I do not want to go into that. You were the quartermaster for the post while you were stationed there, were you not, Mr. Leckie?—A. Part of the time; yes, sir; about eighteen or twenty months of the time, sir.

Q. Did you or not as quartermaster have anything to do specifically and specially with those barracks?—A. Yes, sir.

Q. What was it?—A. Had to keep the barracks in repair, keep them painted and the woodwork and everything repaired.

Q. State whether or not you did have them painted while you were there as quartermaster.—A. Yes, sir.

Q. What is their color?

Senator WARNER. That is in evidence—gray.

A. They are dark lead color, sir.

By Senator FORAKER:

Q. Dark lead color? All right; I do not care for anything more about that. Did you make any effort to look down Fourteenth street from Washington street in the nighttime while you were there, to see what you could see at the point where the alley crossed Fourteenth street?—A. Yes, sir; I also made an investigation of several of the street corners.

Q. Tell us about all of them, as nearly as you can; first, about looking down Fourteenth street from Washington street—what you could see.—A. Well, about 10 o'clock one night while I was there—it was a light, starry night—I made several examinations, and I could not see any more than to know that it was an object at Fourteenth street. When a person would come along I could tell that it was an object.

Q. Could you tell whether men were white or black?—A. I could

not tell whether it was a horse or a man; simply could tell that it was a dark object.

Q. Could not tell how they were dressed?—A. I could not tell Mexicans from Americans until they stepped up to within from 8 to 10 or 12 feet of me. That was near the light, sir.

Q. You made special experiments of that kind, did you, special observations?—A. Yes, sir.

Q. Tell us at what other points you made a test of that kind.—A. Well, I tried—I don't remember the name of the street, but I made a test on Elizabeth street, one block up from the post-office.

Q. At what street is the post-office?—A. The post-office is on Elizabeth and—

Q. How far is it beyond the Miller Hotel, if you recollect? The Miller Hotel is here [referring to the map].—A. It was Tenth where I was.

Q. Where the post-office is?—A. A block above the post-office.

Q. And you looked down Elizabeth street towards the fort?—A. I looked down Elizabeth street and Tenth street both—the crossing of Elizabeth.

Q. And how far could you see people and distinguish who they were, whether white or black, or how dressed?—A. You could tell the form of a person, I should judge, sir, about 20 or 30 feet that night, but you could not tell a Mexican from a white person, from an American, as I said before, over—

Q. You are speaking now of conditions where there was no artificial light?—A. No, sir; I was standing by the lamp, but they were not under the lamp.

Q. They were outside?—A. Yes, sir.

Q. You were standing by an artificial light?—A. Yes, sir.

Q. Tell us whether or not you made an examination to determine how far away from the lamp the light of the lamp was thrown?—A. Well, the light of the lamp was thrown a very short distance. The lamp is about 11 feet from the ground. I should judge the light was thrown about 20 feet, sir.

Senator WARNER. I do not want to interpose an objection, but I think the Lieutenant himself will say that he went all over this.

Senator FORAKER. I think so. I would not have asked that question if he had not referred to it. [To the witness.] Now, did you look at the mouth of the alley there by the Miller Hotel, coming out onto Thirteenth street, at any time while you were there, by night?

A. Yes, sir; I examined it two different nights, sir.

Q. What observation did you make there?—A. Why, I could not see anything at the alley in the night that I was there, sir.

Q. State what is on the corner opposite the Miller Hotel.—A. Do you mean across Thirteenth street?

Q. Yes; right on the corner of Thirteenth and the alley.—

A. Across from the Miller Hotel, across the alley?

Q. Yes.—A. On the same side?

Q. On the same side.—A. It is a store run by a man of the name of Bolack, a clothing store, I believe.

Q. And that fronts right on the alley, does it not?—A. No, sir; it fronts on Thirteenth street.

Q. It has a side front on the alley, has it not—that is, the side of it runs to the alley?—A. It may. I do not think it has an entrance to the building on the side, sir.

Q. I call your attention to the picture shown you, No. 1, the first picture in the Purdy report. Does that correctly represent the condition at the alley?—A. Yes, sir.

Q. What I asked you a moment ago was whether or not this building of Bolack's, which fronts on Thirteenth street, does not run back flush with the alley?—A. Yes, sir.

Q. The side of it?—A. Yes, sir.

Q. So that looking down the alley at night you are simply looking into a space 20 feet wide, with houses on both sides?—A. Yes, sir.

Q. And no artificial light there?—A. No, sir.

Q. Did you look down there with a view to determining what you could see at night?—A. I did not look down at the Miller Hotel. I only investigated the alley at night at the Cowen house, sir.

Q. At the Cowen house?—A. Yes, sir. The other examination that I made was the street at night.

Q. Did you make any other experiments to see how far you could distinguish persons at night?—A. No, sir; I can not recall any other.

By Senator BULKELEY:

Q. Would a street lamp, in your opinion, located on the corner of Washington street—that lamp, I think, is located right across here, isn't it [referring to the map]?—A. Yes, sir.

Q. Would a lamp located there cast any reflection into the alley—such a street lamp as they have there?—A. No, sir.

Q. So it would be impossible for any reflection of the light to be cast into that alley so that anybody could identify anyone?—A. You could only distinguish objects and persons 20 feet around the light.

Q. I think it has been testified by some one that the reflection from this lamp on the corner of Washington and Thirteenth streets cast its light into the alley.—A. I made an examination of the lights, and they only cast a light about 20 feet around the pole.

Q. There are houses between Bolack's and there?—A. Yes, sir.

Q. So that no light could be reflected, in your opinion, from that street lamp into the alley?—A. No, sir.

Q. That would help recognition?—A. No, sir.

By Senator LODGE:

Q. You have stated today, and stated in your testimony before, that you had no interest in this matter at all. I suppose by that you meant that you were not looking up the testimony with the view of aiding one side or the other?—A. Why, no, sir. I was sent there to investigate.

Q. I mean you were not there to get testimony for one side or the other?—A. Why, no, sir. I was put on the stand as a witness for the defense.

Q. That was subsequently.—A. And then I was afterwards, in the Macklin case, put on the stand as a witness for the prosecution. I went there, Senator, to investigate it, not for one side or for the other, but to find facts.

Q. Who gave you your verbal instructions?—A. The aid to General McCaskey, sir; Lieutenant McCaskey.

Q. You spoke with nobody else with regard to what you were going to do at Brownsville?—A. Oh, I may have spoken to several others; possibly, sir.

Q. You had no talk with the judge-advocate?—A. I had no official communication with anyone else.

Q. I mean that you had no talk with the judge-advocate?—A. I would not be positive now, Senator. The trial was going on at the post. All the officers were talking, being in that club together: I may have had some talk with him, but it was not an official conversation.

Q. Did you have any talk with the counsel for the defense?—A. Yes, sir; I talked with the counsel for the defense several times.

Q. Did he suggest anything that you should do?—A. Do you mean did he suggest anything?

Q. Did he suggest points that he would like to have investigated or proved?—A. After he found out I was ordered down there he told me he would like me to be pretty positive about what I could see from Mrs. Leahy's hotel, and such things as that.

Q. You said in your testimony before, at page 1895:

Q. Did you have any instructions about a man by the name of Allison, who was supposed to be in prison down there?

A. I did, sir.

Q. (Reading:)

A. Yes, sir. I was instructed, or requested, rather, to go and see Allison, and see what the charges were against him, and why he was there.

A. I was requested, sir—Colonel Glenn requested me to go and see Allison.

Q. Colonel Glenn was the counsel for the defense?—A. Counsel for Major Penrose. He requested me to go and see Allison and investigate why he was in jail, why he was confined; and I found there was no case they could find against Allison, and, he having once been a soldier, I made a thorough investigation of it, because I felt it my duty to do so.

Q. At page 1892 you were asked:

Did you make a written report?—A. No, sir.

Q. You just reported orally?—A. Yes, sir.

To whom was the oral report made?—A. Do you mean on my return to Fort Sam Houston?

Q. The question is, in your examination:

Did you make a written report?—A. No, sir.

Q. You just reported orally?—A. Yes, sir.

To whom was that oral report made?—A. I reported to General McCaskey's aid, sir.

By Senator FORAKER:

Q. General McCaskey's aid?—A. Yes, sir. Of course I did not go to report to the general. He had not time for all those things. I reported to his aid. The military secretary was not in.

By Senator LODGE:

Q. Did you report the result of your investigation or simply that you had performed your duty and returned?—A. I reported to him

that I had returned to my station and had obeyed the instructions given me.

Q. I was very anxious, Lieutenant, to see your report. I was not present when you were examined before, but I asked the War Department to procure your report for me, and they sent me these telegrams, which I will put in the record:

[Telegrams.]

WASHINGTON, May 31, 1907.

Maj. Gen. W. S. McCaskey,

Headquarters Department Dakota, St. Paul, Minn.:

Lieutenant Leckie, Twenty-sixth Infantry, testified before Senate Military Committee that he went to Brownsville to make investigation concerning affray there. Did he go by your order; and if so, was order written or oral? If not ordered, under what authority did he go and at whose request? Did he make report of his investigation to anyone? If so, to whom was report made, and was report written or oral? Telegraph answer without delay.

By order Acting Secretary War:

AINSWORTH, *The Adjutant-General.*

ST. PAUL, MINN., May 31, 1907.

The ADJUTANT-GENERAL U. S. ARMY,

Washington, D. C.:

Referring to telegram your office this day, Lieutenant Leckie was ordered by me as department commander, at request of counsel for defense in case of Major Penrose, to proceed to Brownsville and determine matters of importance to their contention. Report of his investigation was testified to before the court. No other report was made within my recollection. My order was official and printed. He may have started before the order was printed.

McCASKEY,

Major-General, U. S. Army.

Now, is that correct?—A. Yes, sir; that is correct.

Q. Then you were sent there, according to General McCaskey's statement, at the request of the counsel for the defense?—A. Senator, I have no way of knowing what had been requested of General McCaskey. General McCaskey is the department commander. I was one of the officers in his department. I was ordered by him, and it would not be military respect for me to go and criticise him or question him as to why he was sending me. I do not know, sir.

Q. I was going to ask you whether you knew that it was at the request of counsel?—A. I did not know it until afterwards, sir.

Q. You mean, did not know it until after you returned from Brownsville?—A. No, sir.

Q. You did not know when you went to Brownsville that it was at the request of the counsel for Major Penrose?—A. No, sir; I did not.

Q. And you went?—A. That request made by the counsel was made, I suppose, to General McCaskey privately; certainly not in my presence.

Q. You did not know that you were sent by request of counsel for Major Penrose "to determine matters of importance to their contention?"—A. I knew I was sent to determine matters of importance in regard to the Penrose trial, and I knew, naturally—knew from common, ordinary intelligence—that I was to testify for the defense, that I would be a witness for the defense.

Q. You knew you would be a witness for the defense?—A. Yes, sir; not by anyone telling me so, but simply by putting two and two together.

Q. If you did not know at whose request, might it not have been possible that you were sent there at the request of the judge-advocate?—A. It might have been possible, but my recollection of the thing was that the judge-advocate had finished his part of the evidence, sir.

Q. You were not sent until—A. Until after those questions arose, sir, by evidence before the court.

Q. You were not sent until the trial was partly over?—A. The trial was very nearly over, sir, before I was sent.

Q. Then you knew that you were sent there to appear as a witness for the defense?—A. Yes, sir; and being an army officer I naturally knew that, sir, knowing the progress of the trial—

Q. And your report was made in the way of testimony for the defense?—A. Outside of the report that I just gave you evidence of, sir, to Lieutenant McCaskey.

Q. I understand that.—A. I testified before the committee as to conditions as I found them from my investigation.

Q. When did you go there under those instructions?—A. It was in March, sir. I have forgotten the dates. The order gives the exact dates there, sir.

Q. You were sent March 19?—A. That may have been the date of performing the travel; I don't know, sir. I performed the journey before that order was issued. The order was issued a few days afterwards.

Q. And you had talked with Colonel Glenn?—A. Yes, sir; I guess every officer in the post had talked with Colonel Glenn.

Q. Did he tell you anything about what he desired to prove or have investigated down there?—A. He did not tell me what he desired to prove; no, sir. He told me that he would like to have me make a thorough investigation as to what I could see.

By Senator WARNER:

Q. Did you have any talk with the judge-advocate, representing the Government in the Penrose case, as to what he wanted you to investigate?—A. I had several talks with the judge-advocate, sir; but I can not recall any time—I can not now recall any particular time. He did tell me that he wanted me to go to see Mr. Kleiber; that Mr. Kleiber had promised him a map of Brownsville. I had several conversations with both the judge-advocate and his assistant, Lieutenant Fitch.

Q. Mr. Allison was out of the Army—he was a citizen?—A. Yes, sir.

Q. What interest did Major Glenn or any other officer in the Army have in Mr. Allison as a citizen?—A. Mr. Allison was an old soldier, sir, and it had been rumored around Fort Sam Houston that there was nothing against Allison, that Allison was being held to prevent his testifying, or for the purpose of giving them all the trouble they could in getting him before the court-martial. I did not know how much there was in this, sir, and when I was down there before, on duty for the Quartermaster's Department, I was told

that Allison was in Mexico by a great many people there, and when I got there there were a number of people who did not know that Allison was in jail. I found that Allison was charged with assault with attempt to murder. I went to the man that it was claimed that he assaulted.

Q. What was his name?—A. His first name was Dee. I do not know his last name. He was a brakeman on the St. Louis, Brownsville and Mexico Railroad; and he told me, "Lieutenant, if there is anything in that, I don't know anything about it."

Q. Was his name Dee Dewalt?—A. They all called him Dee. I do not know his name. I had known the brakeman for some time, but I do not know his last name. He said, "If anything of that kind ever happened, I don't know anything about it." So then I went to the jail and saw Allison and talked with him, and he said he knew nothing about it. So then I went to Mr. Kleiber, the prosecuting attorney, and he told me, and read the charges against Allison, and said he had several witnesses, one of them, the principal witness, William Henry, an old negro there, discharged from one of the regiments long years ago—I don't know what regiment, sir; and so then I had this man Dee to go up to Mr. Kleiber's office with me and make the statement before Mr. Kleiber that he made to me, which he did.

Q. What was that statement; that he knew nothing of it?—A. That he knew nothing about it, and Mr. Kleiber said, "Well, Dee, that does not agree with what you told me before," and that was about all that conversation.

Q. Did you say that this man Dee, as you call him—I understand that his name was Dee Dewalt—was a brakeman?—A. Yes, sir.

Q. Did you visit him on the train, when he was running on the train, when he was on duty?—A. He was on the train when I went down to Brownsville, and then I afterwards saw him in Brownsville.

Q. You questioned him then?—A. Yes, sir.

Q. Now you say that it was to prevent Allison from testifying before the court-martial, or to give as much trouble as possible?—A. That is what was talked around San Antonio, sir. I never—

Q. Did you inquire of Major Glenn if it would prevent them getting Mr. Allison as a witness?—A. No, sir; they could have issued a subpoena for him, or have gotten him on habeas corpus, I suppose.

Q. You understood that?—A. Yes, sir. He did not want to go to that trouble, as I understood his conversation with me, until he found out where Allison was, and whether he knew anything about it; that was all. He requested me to question Allison and see if he knew anything about the shooting.

Q. Did not Mr. Kleiber tell you about the case?—A. Yes, sir; he read the charges against Allison.

Q. And told you what the facts were?—A. He told me what the facts were as he had them; yes, sir.

Q. And this man Dee Dewalt was present?—A. He was not present when Mr. Kleiber read the charges and when I told him what were the facts. He was present after that, sir.

Q. I do not know that it is very important, but I have had sent to me here, within a day or two, an affidavit from Mr. Dee Dewalt.—A. Yes, sir.

Q. Which I will read to you.

THE STATE OF TEXAS, *County of Cameron*:

Before me, Louis Kowalski, clerk of the district court of Cameron County, Tex., this day personally came and appeared Dee Dewalt, to me well known and who, after being by me sworn did depose and say that he is the same Dee Dewalt whose name appears upon the indictment found against Earnest Allison, charging the said Earnest Allison with an assault with intent to commit murder upon him, the said Dewalt. I am a brakeman on the St. Louis, Brownsville and Mexico Railway. On one of my trips from Bay City to Brownsville Lieut. Harry G. Leckie was on the train. He called me and asked of me if I knew who the brakeman was that was assaulted by Earnest Allison. I informed him I was the man. He then interrogated me about this assault. I then explained to him what I remembered at that time to the best of my knowledge. He kept constantly asking me if there was not some feeling among the white people against the negroes. This question he put to me several times on the trip. I informed him that I knew of no feeling whatsoever against the colored people. He then asked me to meet him the next day, at 11 o'clock, at Weller's saloon. I did not meet him there, as I did not think it was the proper place, but on the following day we met at the office of Mr. Louis Kowalski, clerk of the district court of Cameron County, Tex., and in the presence of the Hon. John I. Kleiber, whom I requested to be present when I had the conversation with Lieutenant Leckie so that he might hear what I had to say. Lieutenant Leckie asked me if I did not think that they were holding Allison in jail so as to prevent him from going to Washington to testify in behalf of the soldiers, and I answered him no. He then asked me if it was not my opinion, and I told him no. He then asked me if I did not feel myself unsafe since the trouble of August 13. My answer was that I have been living down here with these people for over three years, and before this trouble and since have had no occasion to complain. Any statements made by Lieutenant Leckie to the contrary are not true.

DEE DEWALT.

Sworn and subscribed to before me this 4th day of June, A. D. 1907.

LOUIS KOWALSKI,

Clerk District Court Cameron County, Tex.

A. A part of that statement there is correct, sir. The majority of it is not correct. Mr. Kleiber is here in the city, and I believe he will go before the committee, and I think he will verify the statement that I have made to you in regard to the conversation we had with regard to this man.

Q. Wherein is this correct?

Senator FORAKER. That affidavit has been put into the testimony here. Where is this man, and why could he not have been brought here and be cross-examined instead of putting in a man's testimony by affidavit? We have not put anybody else's testimony in in that way.

Senator LODGE. This record is full of affidavits.

Senator WARNER. The first time I had this affidavit was day before yesterday, and there was not time to get the witness.

Senator FORAKER. You have read that, and there is no opportunity to cross-examine the man who made the affidavit.

Senator HEMENWAY. I have followed the reading of the affidavit very carefully. Does he deny in the affidavit his statement that he knew nothing about any assault on the part of Allison?

Senator WARNER. It is not referred to.

Senator FORAKER. I think there is a reference to it, if you will allow me to take it.

The WITNESS. In our conversation before Mr. Kleiber, this man Dee did make the statement before Mr. Kleiber that he made to me on

the train. He did meet me at Weller's saloon, as I told him to do, for the purpose of going before Mr. Kleiber to see if there was any truth in his story, and he met me there, and I told him then to come up to Mr. Kleiber's office that afternoon. I think it was, and he made the statement before Mr. Kleiber that he made to me on the train. Mr. Kleiber said to him, "Dee," I think the words were, "you are not telling the truth and you know it. That is not the statement that you made to me."

Senator FORAKER. I call attention to the fact that in his affidavit this man says, referring to Lieutenant Leckie, "He then interrogated me about this assault. I then explained to him what I remembered at that time to the best of my knowledge."

Senator WARNER. There is no question about that. That is what he said.

Senator HEMENWAY. Whether there was anything in the affidavit denying the statement that Lieutenant Leckie makes, as to his statement that he (Allison) did not assault him, and that he knew nothing about it.

Senator FORAKER. There is nothing here, and the party who took the affidavit must have known, or certainly had an opportunity to know at the time he took it, that Lieutenant Leckie had testified about this matter in this same way some weeks ago.

By Senator WARNER:

Q. You went and saw this man Allison yourself?—A. Yes, sir.

Q. That you have gone over in your direct testimony, that interview with Allison, and I would rather not take up time on that.—A. Yes, sir.

Q. But I will just ask one question that was not asked. Was it your view in going to see Mr. Allison to see whether or not he could be summoned as a witness?—A. Yes, sir.

Q. Summoned as a witness by whom?—A. Summoned by the judge-advocate of the court for the defense.

By Senator LODGE:

Q. By Colonel Glenn?—A. The judge-advocate of the court is the only one who can summon a witness, sir.

Senator TALIAFERRO. He says for the defense.

A. For the defense. The defense makes a request of the judge-advocate that he wants certain witnesses summoned, and the judge-advocate does it, unless he has some good reason for not doing it.

By Senator WARNER:

Q. Lieutenant, in making that examination there, you expressed an opinion, did you not, to Mrs. Leahy and others, as to whether or not this shooting was done by the colored soldiers?—A. No, sir; I did not.

Q. Did you form an opinion?—A. Well, I may have formed an opinion at the time, sir.

Q. What was that opinion?—A. I don't think, Senator, that my opinion would do this committee any good, but it might do a great many people harm, and I do not think I ought to be required to offer my opinion unnecessarily. My opinion could do the committee no good. I have not kept up with the evidence. You have heard the evidence and you are in a better position to decide about this than I

am. I never, at any time, made a statement to Mrs. Leahy or anyone in Mrs. Leahy's house that I can recall as to who did the shooting. A great many people spoke to me as to who they thought did the shooting; a great many have done so there and here and other places.

Senator FORAKER. My recollection is that Mrs. Leahy testified that the Lieutenant did not express any opinion, and I do not know of any witness who has testified that the Lieutenant at any time expressed any opinion.

Senator WARNER. I am not saying that he did. I asked him if he had expressed an opinion. I do not mean to assume that he ever did.

The WITNESS. I understood the Senator to say that Mrs. Leahy had said so.

By Senator WARNER:

Q. You understood me to say that Mrs. Leahy had said so?—

A. Yes, sir.

Senator FORAKER. I should like to hear the question read which Senator Warner asked.

The official reporter read the question, as follows:

Lieutenant, in making that examination there, you expressed an opinion, did you not, to Mrs. Leahy and others, as to whether or not this shooting was done by the colored soldiers?

A. I judged by that, sir, that Mrs. Leahy had made the statement.

By Senator WARNER:

Q. I did not intend to have you understand it in that way. You made no statement there?—A. No, sir.

Q. Did you make any statement to anyone there as to where the parties must have stood who did the shooting?—A. Yes, sir. I do not know whether I made any statement there or not, but I have made the statement several times and testified as to my opinion as to where the parties stood. I was in Lynchburg, Va., on August 13, and it would be impossible for me to know who did the shooting. I know it was done with rifles, and I have my idea as to where the people were standing who did the shooting, but outside of that it would simply be a private opinion, which I do not think I have a right to express. It is not evidence, and it would not do the committee any good.

Q. Well, Lieutenant, you satisfied yourself there, as you have testified. I am not going into it fully. You satisfied yourself as to the point of entrance and the point of exit of the different bullets?—

A. Yes, sir.

Q. And of the position in which the parties were who fired?—

A. Yes, sir.

Q. That part of it you could determine?—A. Yes, sir.

Q. Now, you were asked the question by Senator Foraker in your direct examination whether or not those bullets that entered the Yturria house could have been fired from barracks B?—A. Yes, sir.

Q. You thought they could not?—A. I do not think they could. The reason that I say that they were not fired from B barracks is that they would have had to turn an angle of 90 degrees in the air, without anything to deflect them in any way; and I do not know of any laws of motion for a bullet doing that.

Q. From what barracks could they have been fired?—A. Well, from my investigation I determined that those bullets were fired either by a man in the road being mounted or from the wall. I do not believe that those bullets were fired from any of the barracks.

Q. A man being mounted?—A. It is possible for the bullets to have been fired that way.

Q. That is, they must have been fired by a man on horseback, you mean, or a man standing upon the wall?—A. They could have been fired from either place, sir. I determined that from my examination.

By Senator LODGE:

Q. You mean the wall of the post?—A. The wall of the reservation.

By Senator WARNER:

Q. The wall of the reservation?—A. Yes, sir.

Q. As the bullet entered at a point some 9 or 10 feet, as I remember your testimony, above the ground?—A. I think between 8 and 9 feet, somewhere along there, Senator.

Q. Now, you tried to place yourself in the position of the parties who claimed they saw the men who did the shooting down there in making your tests in Brownsville?—A. Yes, sir.

Q. When you were up in Mrs. Leahy's hotel did you have persons go along the alley?—A. No, sir.

Q. To see whether you could see them or not?—A. No, sir.

Q. Did you have parties discharge guns to see what you could see by the flash?—A. No, sir; I did not. I know that the flash of a gun is too quick for the human eye to see anything by it. It blinds the eye.

Q. I am asking you what you did there.—A. No, sir; I did not, there. I have seen it at other times and knew that it was absolutely unnecessary.

Q. You concluded that was absolutely unnecessary?—A. To try to determine whether a person could be recognized by the flash of a high-power gun; yes, sir.

Q. Did you place yourself in the position in which the lieutenant of police was when he was shot?—A. I don't know what position he was in when he was shot.

Q. He was on horseback.—A. No, sir; I did not place myself in that position.

Q. Riding down the street, and the parties were back on the street in the neighborhood of the gaslight. The evidence will show where they were.—A. I did not place myself there, sir. I know from the lamplight that you can not distinguish people there by the lamplight over 20 feet from you.

Q. When you were standing in the lamplight?—A. Yes, sir; I know that I could not. I don't know what other people did there. It is impossible for me to say.

Q. When you were standing in the lamplight you discovered that you could not identify a party more than 20 feet away?—A. Could not discover whether they were black or white, sir, 20 feet away.

Q. Could you discover whether they had a uniform on or not?—A. Well, 20 feet from the lamp you could.

Q. Could you discover 40 feet away whether they were soldiers or citizens?—A. No, sir; you could not discover, 40 feet away. Lots

of times there at night, on occasions when I was sent out in the town as officer of the day to round up the men, I have advanced to within the length of this table from a Mexican policeman, thinking he was a soldier. He would have on a khaki blouse and khaki trousers, an olive drab hat with the officer's cord around it, and at that distance I could not tell the color of the officer. I could see the dim outline and that what he had on looked to me to be khaki.

Q. When you say the length of this table, about how many feet is that, Lieutenant?—A. About 15 or 18 feet, sir.

Q. You could see that he had the khaki uniform and you could see the color of his trousers?—A. I could not see—

Q. And you could see that he had a hat on, but the Mexican was dark himself, was he not?—A. Yes, sir.

Q. Dark complexioned?—A. Yes, sir. That does not affect it, though. He might have been white.

Q. And he had a cord around his hat?—A. Yes, sir.

Q. You could see that at that distance?—A. I could not see the cord. I could see the outline, sir, and that he had on khaki.

Q. What was the position of yourself and the policeman at that time?—A. I would be walking down the street and he would be in front of me. Do not understand me to say, Senator, that at that distance I could see the hat cord on a man's hat.

Q. You have said you could not.—A. I said—I was describing the policeman—I meant that after you got up close to him, it is pretty hard to tell when you got right to him, because they have on the cord, they have the campaign hat, they have the blouse, and the campaign breeches—trousers, rather—and, as a rule, Government shoes.

The CHAIRMAN. The following has been received from the War Department and will be printed in the record:

WAR DEPARTMENT.
OFFICE OF THE CHIEF OF ORDNANCE,
Washington, June 8, 1907.

The CHAIRMAN SENATE COMMITTEE ON MILITARY AFFAIRS.

(Through the Honorable the Secretary of War.)

SIR: In response to inquiries, I have the honor to inform you as follows in reference to ammunition for the United States magazine rifle, model of 1903:

The weight of the jacket of the service bullet is 51½ grains, and the composition of the core is 36 parts lead and 1 part tin. The composition of the bullet for the guard cartridge is 90 parts lead, 8½ parts tin, and 1½ parts antimony.

Very respectfully,

A. H. RUSSELL,
*Lieutenant-Colonel, Ordnance Department, U. S. Army,
Acting Chief of Ordnance.*

(At 1 o'clock and 7 minutes p. m. the committee took a recess until 2 o'clock and 15 minutes p. m.)

AFTERNOON SESSION.

The committee reconvened, pursuant to the taking of the recess, at 2.15 o'clock p. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, and Taliaferro.

TESTIMONY OF LIEUT. HARRY G. LECKIE, U. S. ARMY—Continued.

By Senator WARNER:

Q. Without going into the details, you were at Brownsville three times after the 13th of August?—A. Yes, sir.

Q. The examination that you made was the last time you were there, was it?—A. Yes, sir.

Q. The other times you were there on other business?—A. I was there the first time in October, sir, on a hunting trip, and the second time I was there doing quartermaster duty.

Q. Yes. That you have already testified to in your direct examination.—A. Yes, sir.

Q. In which of those trips, if at all, did you go over to Matamoros?—A. I was over to Matamoros, sir, the last trip.

Q. What was your business there, Lieutenant?—A. I went over there to see if I could investigate the Mexican rifles—to examine them, I should have said.

Q. Did you investigate?—A. No, sir; the commanding officer and most of the officers stationed at Matamoros, Mexico, had been changed during my absence, and I did not know any of them then, except one or two low-ranking officers, who did not have the authority to show me those guns or their ammunition. They are very strict about those things, and for that reason I did not see the rifle. I did not have the time to go to see the commanding officer.

Q. Why did you want to see the rifles with which the Mexican soldiers were armed?—A. Well, I was sent down there to make as thorough an investigation of this matter as I could, sir, and I wanted to see the Mexican rifles and the ammunition in connection with my investigation.

Q. Did you not find out with what kind of guns the Mexican army was armed?—A. Not on that trip, sir. I knew what kind of guns they were armed with.

Q. Was this visit to Matamoros at your own suggestion or at the suggestion of some one else?—A. The visit there was at my own suggestion—my own idea.

Q. Did you think that Springfield ammunition could be fired out of the Mexican Mauser?—A. I knew that; no, sir. The Mauser is .28, and the Springfield is .30; but I had heard a good many times, after our new rifle came out, the Springfield, that the Mexican Government had been having some experiments with this rifle at the arsenal in Mexico City, and I was also told by several people that had been down in Mexico, civilian engineers and miners, different ones, that the troops were then armed with guns that carried the same ammunition as our Springfield gun. For that reason I went over to see if it was a fact.

Q. You found out subsequently that that was not correct, did you not?—A. Well, not positive, sir. I know when I was there, when I was stationed there from 1903 to 1906, that the troops across the river from Brownsville were armed with a Mauser, and I saw, on my last trip down there, a sentinel in front of their cuartel, one of their barracks, that had the Mauser. But whether they had the other rifles or not I do not know, sir.

Q. Did you do any hunting the times you were down?—A. The last time?

Q. Yes.—A. No, sir.

Q. Did you either time?—A. I went down on a hunting trip the first time; yes, sir.

Q. Yes; that is what I understood. But the second time you did no hunting?—A. Yes, sir; the second time I was down on quarter-master duty.

Q. The third time, I should have said, Lieutenant; pardon me.—A. The third time? No, sir.

Q. You did not wear your uniform, either, did you?—A. I never wear my uniform except on duty with the troops, sir.

Q. Did you have your hunting suit with you the third time you were there?—A. No, sir; nor did I have any firearms.

Senator FORAKER. That is the third time he was there.

By Senator WARNER:

Q. And this bullet that you extracted in small pieces, or shavings, you do not know that you got that all out?—A. I do know that I got it all out, sir.

Q. But you do not know that you got all the pieces out?—A. I know that I got all the pieces, sir, and secured them. At the time I took that bullet out I was not thinking of any investigation, or of using it in evidence in any way at all. I bored the bullet out. As well as I remember, I think, to state the whole thing, the drinks were bet on it. After I said it was not a Government bullet that had made this hole, I think myself and some other member of the party, I do not remember who, bet the drinks for the crowd, he betting that it was a Government bullet with a steel jacket around it, and I think I bet that it was not a Government bullet, on account of the size of the hole. The hole it had made I could put my thumb in, and I cut the entire bullet out, and caught the shavings in my hand, and this lead you see here was put in a large cigarette paper like you get in Mexico, a shuck paper—not actually cornshuck, but made up from the pulp of the cornshuck—and I do not doubt but what I threw some of it down in the shavings; but I know there was no steel jacket to it. The bullet had too much penetrating power after it struck the 2 by 4 to have been torn loose from a steel jacket, because if what it struck had power enough to stop the steel jacket, it would naturally have stopped the lead.

Q. From page 1126 of the Penrose court-martial, speaking of taking out part of the bullet, taking the bullet out of the post. I read you as follows:

Q. But you didn't weigh these fillings?—A. No, sir.

That is correct, is it?—A. Yes, sir.

Q. (Reading:)

Q. You do not know whether you got all of them out or not?—A. No, sir.

That is correct, is it?—A. That is not correct, sir. I do not think that my testimony stated that.

Q. What is that?—A. If they asked me that question, I know I stated I got them all out, because I did, and I could not have stated otherwise. There may have been some misunderstanding in taking my testimony down, or I may not have expressed myself clearly.

Q. I will read you further:

Q. Are you prepared to state here that the point of the auger did not merely take out the lead from the inside of the steel-jacketed bullet?—A. Yes, sir; we cut the hole out entirely, so if there had been any steel jacket there we would have found it.

That is correct, is it?—A. Yes, sir.

Q. But the preceding answer you say you did not give?—A. Understand me, Senator. The way that is expressed there is to leave the impression that I did not cut all the bullet out. I say that is not correct. If I made that statement before the court in those words, I did not intend to leave that impression at all, because I did cut all the bullet out. I cut the entire bullet out, bored through the post, and the auger came out on the other side; and if there had been any steel jacket there it would have pushed it through and it would have dropped out on the other side. And then afterwards I put my finger in the hole and ran it around, and there was no steel jacket in there.

Q. Now, as to the amount of lead in a .30 caliber guard cartridge, such as is now used in the Army, and the amount of lead contained in a .44 caliber revolver bullet, is it the same?—A. I will tell you, Senator, some .44 calibers have 220 grains—I mean .45 caliber; that is, the .45 Colt, known as the military model. There are other .45 calibers that I think have as low as one hundred and sixty something—168—I will not be positive about that part of it. As to the guard cartridge, at the time of that testimony before that court-martial I was under the impression that the guard cartridge bullet had 220 grains of lead in it. I have since then examined and weighed a guard cartridge bullet and find it has 186 grains in it.

Q. Your testimony before the court-martial was that it was the same.—A. No, sir; the judge-advocate made a statement to me in his question. As well as I remember his question, he said, "You state you think it is a .44 or .45. Why do you think so?" I said, "From the size of the hole that the bullet made," and I think he said, "Is it a fact that the guard cartridge and the .45 have the same amount of lead?" He said that the guard cartridge had 220 grains and my statement was that the .45 caliber also had 220 grains.

Q. I will read again from this, Lieutenant. To get this connection I will read two or three questions and answers, beginning on page 1125 of the court-martial proceedings:

Q. So this lead you extracted, you extracted in small pieces, did you?—A. Yes, sir.

I assume that is correct?—A. Yes, sir.

Q. (Reading:)

Q. It bore no resemblance to a bullet when you took it out—it was mostly filings and cuttings?—Yes, sir; that is right.

That is correct?—A. Yes, sir.

Q. (Reading:)

Q. Did you weigh these?—A. No, sir.

That is correct?—A. Yes, sir.

Q. (Reading:)

Q. Are you prepared to state that this bullet, or pieces of lead, that you extracted from this hole could not have come equally, as well from a .30-caliber Springfield cartridge, such as used for guard purposes in the United States Army, and was, then, equally as easy as it could have been a lead bullet from a .44 or .45 caliber revolver?—A. It could have been. I would like to give my reasons for stating why I thought it was a .44 or .45, though.

That is correct, is it?—A. Yes, sir.

Q. (Reading:)

Assistant judge-advocate:

"We have no objections, except that this witness has not qualified as an expert in the matter of bullets. He merely, as I understand him, with a brace and bit extracted a large number of small lead filings and cuttings, and I do not see how anyone, even though he is an expert, can give an opinion as to what kind of gun the bullet was fired from unless he has something to go by besides a small, or large, number of very small filings."

Counsel for the accused:

"I would like to call the court's attention to the fact that that is argument. The question is, the witness has asked to explain his answer. The court has ruled many times that he has a right to do so."

A. I do not want to give an opinion; just my reasons for believing it was a .44 or .45.

The president:

"The witness can explain his answer."

A. The reason I think it was either a .44 or .45 was on account of the size of the hole where it entered the post.

What you said there is all correct?—A. Yes, sir.

Q. And yet it was your opinion then, and I assume is your opinion now, that it could not have been fired out of a .30-caliber Springfield—that is, a .30-caliber Springfield cartridge?—A. Yes, sir; that is my opinion. It is possible. But you can determine that, Senator, by taking the lead that is in front of me here now—that was cut out of the post—and the lead out of a guard cartridge and having an assay made of them.

Q. Pardon me a moment, Lieutenant. I want to ask you a fair question, and let us get the answer, that is all.—A. Yes, sir.

Q. This question from the court-martial reads:

Are you prepared to state that this bullet, or pieces of lead, that you extracted from this hole could not have come equally as well—

A. I do not think it could have been equally as well, sir.

Q. Your answer to that question before the court-martial was that it could have been.—A. I meant by answering in that way that it could have been from—

Q. With the modifications you have made, of course.—A. That it could have been from the guard cartridge, sir.

Q. That is your opinion now?—A. My opinion now, sir, is that it is not from the guard cartridge, if the ordnance manual is correct, which I suppose it is. If it is correct, as I naturally think it would be, my opinion is that it is not from the guard cartridge, sir.

Q. Why?—A. Because this bullet is 1 part tin and either 20 or 22 parts lead.

Q. When did you make that test?—A. A short while ago, sir.

Q. Where?—A. Here in the city.

Q. When?—A. Three or four days ago, sir.

Q. At what place?—A. At the Ebbitt House.

Q. Who assisted you?—A. No one.

Q. How did you make the test?—A. By weighing the lead; by taking as near as I could. Of course I do not say that test is absolutely correct, but I say it is very near correct. I believe it to be very near correct. I got that by taking the weight of the lead and then putting it in an acid and taking it out and weighing it, and then taking the difference.

Q. What kind of an acid?—A. Senator, I can not call the names of the acids now, sir.

Q. What kind of scales or appliance had you for weighing it with the accuracy you describe?—A. Down in the drug store.

Q. Down in the drug store. Apothecary's scales?—A. Not the scales that they use out on the counter, but small scales that they use in the back part for mixing up medicines.

Q. What portion of the filings of this bullet did you take to make that experiment with?—A. I used three pieces of it, sir.

Q. Did you not know that you were going to produce those pieces in evidence?—A. Did I know I was going to produce the bullet in evidence?

Q. Yes.—A. Yes, sir.

Q. Now, this test was on your own initiative?—A. It was in my own room; it was done by me.

Q. By your own suggestion?—A. Yes, sir; by my own suggestion.

Q. You did not have these pieces of bullets—the filings—before the court-martial?—A. No, sir.

Q. And you did not have them when you testified here before?—A. I had them, but did not have them on my person. They were in my quarters at the time, as I have stated to the committee this morning.

Q. You did not have your hunting coat in Brownsville, on the third visit you made to Brownsville?—A. I did have it on the visit when I took the cuttings out, but not on the third visit.

Q. What visit was it when you took the cuttings out?—A. The hunting trip, in October.

Q. And you wrapped them up in a piece of cigarette paper?—A. Yes, sir; I wrapped them up in a piece of cigarette paper, and I had in my hunting box a corkscrew that would fold up, and you would fold the screw over into the handle.

Q. I know; a very necessary thing.—A. Yes, sir; and I dropped those cuttings down in there, and then when I got to Fort Brown, when this case came up, I forgot where I had put them, and I looked about everywhere except the right place, and did not find them until last month.

Q. Did you not tell them in the court-martial that you placed those cuttings in a pocket of your hunting coat?—A. Yes, sir.

Q. You knew that?—A. I had placed them in there, but had forgotten placing them in this corkscrew, and the way I found them in the corkscrew was this: That I had packed up everything, and I went to open a bottle of beer one morning and I remembered the corkscrew in my hunting box, and the hunting box was not locked and I went and got the corkscrew, and when I opened it the shavings fell out on the table, and I naturally remembered where they came from.

Q. Are you a chemist?—A. No, sir.

Q. Did you ever study chemistry?—A. Not in any school, sir.

Q. How did you know the kind of acid to use in making this test?—A. I had been doing a good deal of experimenting lately, sir, with iron and zinc ore, and also with a lead and zinc and silver ore, and of course you can run the lead and silver out of the ore, and the lead will carry the silver off, by heating the lead to about 280° or 300°; and making different experiments with the ore was the way I became familiar with the different acids and the use of them, and the effect on lead.

Q. Had this bullet you extracted from the post gone through any other substance?—A. Sir?

Q. Had this bullet which you extracted from this post or timber, this upright, passed through any other substance before it struck the post?—A. I could not say, Senator. I do not know whether it had or not.

Q. You could not say whether it had or not?—A. No, sir.

Q. Do you know how much force would be required to strip the steel jacket from a bullet, or under what circumstances the steel jacket will be removed from a bullet?—A. No, sir.

Q. Did you ever make any experiments as to that?—A. About a year and a half ago, or two years ago, I guess, while fixing the range about 9 miles out from Fort Brown, I tore down the old butts, and I noticed in there a great many bullets that had lodged against the woodwork to the parapet, and some of them had had the jackets stripped from them.

Q. What did they pass through before lodging in that parapet?—A. They had gone through this earthen back in some places, and lumber running from 1 by 4 to 2 by 4, and some of them had gone through bags filled with sand, both stretchers and headers. I do not know that they had gone straight through. I did not pay much attention to it.

Q. But you would not undertake to say just what resistance would remove the jacket from a bullet?—A. No, sir; I would not.

Q. You do not pretend to be an expert on that matter?—A. No, sir.

Q. Firing these bullets, even into water, will sometimes strip these jackets off?—A. I do not think so; I do not know, but I do not think it would. I do not understand how it would.

Q. You are quite clear about that?—A. I do not know about it, sir.

Q. No; I do not mean that you are quite clear, but that is your opinion, because you do not pretend to be an expert?—A. No, sir; I am not an expert.

Q. You examined the Cowen house; and how many shots did you find in that house?—A. I do not remember just the number of shots, Senator.

Q. I have a memorandum here—I do not know whether it is correct or not—saying that you thought there were twenty separate shots in the house?—A. There are a good many shot holes there, sir.

Q. What is that?—A. There are a good many shot holes there. I think it is somewhere near twenty shots, sir. I testified, I think, before the court-martial as to the number. It was fresh in my mind at the time.

Q. I will read to you from page 1898 of the hearings before this committee:

Q. There were about how many shots you found that had been fired into that house?—A. There were about twenty.

Q. About twenty shots. Twenty holes or twenty separate bullets?—A. Twenty separate bullets went in there.

That would be your remembrance now, would it?—A. Yes, sir.

Q. And those twenty separate bullets went through practically all the rooms in that house, did they not—one or more of them?—A. Not all of them, sir. Some of them went through into two rooms.

Q. I say one or more of the bullets went through.—A. Yes, sir. There was only one bullet that went clear through the house and came out on the other side, sir. The others went through 6 or 7 inches, I should judge, of lumber.

Q. That house seemed to have been fired into more than any other house?—A. Yes, sir.

Q. And you were down there investigating the facts relating to the shooting up of the town, were you not?—A. I went down there to investigate, to try to determine the direction these shots came from.

Q. Did you make any inquiry there as to why it was that the firing was done into the Cowen house, if done by the colored troops?—A. No, sir.

Q. Did anybody tell you anything about it?—A. A great many people told me, sir, that the colored troops shot into the Cowen house.

Q. Why?—A. That is the only thing they were talking about, and the only thing they could talk about at the time. I do not know why. It was a natural thing, I suppose, if a thing of that kind had happened in a small town, that the people would be talking about it.

Q. And why was it, did anyone tell you, that they thought the Cowen house was shot into more than any other house?—A. I do not remember why they said the Cowen house was shot into more than any other house.

Q. Or why it had been shot into at all?—A. I do not remember that, sir.

Q. You found public opinion there all one way, on this shooting, as to whether it was done by colored troops or not?—A. Well, as I remember, yes, sir. If anybody else had any other opinion I guess they were afraid to express it, the majority of them.

Q. You volunteer that statement. Did you have any evidence of anybody being afraid to express an opinion?—A. Nobody told me that they were afraid to, sir. But naturally, when people are wrought up over a thing, when it is none of your business, you would not antagonize them in any such way; and I guess if any of them had had that opinion they would have been pretty apt to keep it to themselves.

Q. Are you as clear about that as about other parts of your testimony, Lieutenant?—A. Sir?

Q. Are you as clear about that as you are about the other parts of your testimony?—A. You asked me the question, Senator, as to what people said, and you wanted to know why those people did not express themselves that way, and that is my reason why.

Q. And you think you are a disinterested witness?—A. Why, Senator, I was sent down there to perform a duty.

Q. I am asking you now.—A. Yes, sir; and I am going to answer the question. I believe I have got manhood enough not to allow my judgment and opinion to come into these things. If I did not think so, I would request to be relieved of my duty. And even if I did have an opinion, I think I could give a correct and true report.

Q. There was something said about the orange tree that has been talked of, next to the Leahy house, the Leahy Hotel. You remember that tree there, do you not, Lieutenant?—A. Yes, sir.

Q. Did that obstruct the view of the fort?—A. Yes, sir; it obstructed the view to a certain extent. You could not see through the tree.

Q. But with the tree there, with any obstruction that there was from the tree, you could see?—A. Sir?

Q. With whatever obstruction there may have been from the tree, you could see?—A. If you were up in the upstairs window of Mrs. Leahy's house, there are certain parts of the porch, and up a certain tree. Now, if you were down on the ground below the top of the tree—the tree had very thick foliage on it, and I could not see through the tree.

Q. Yes. I failed to make myself understood in my question. What I meant to have asked you, only you answered too quickly for me, was, when you were up in the second story of the Leahy Hotel—A. Yes, sir.

Q. The tree, then, did not obstruct your view?—A. It did not obstruct the view except of the lower parts of the building, the lower porch and such as that. The upper part of the porch, sir; the upper porch was higher than the tree, except just where the top runs up [indicating].

Q. That is what we call the upper gallery and porch?—A. Yes, sir.

Q. There is the main floor and then the gallery above it?—A. Yes, sir.

Q. The tree did not obstruct the view, whatever part of it would be in view from the window?—A. No, sir; the houses obstructed it.

Q. Yes; except the part of it which you have stated heretofore, and I do not care to go into that again.—A. Yes, sir.

Senator WARNER. That is all I want to ask.

By Senator FORAKER:

Q. You were asked about this man Allison, who was confined in jail when you were there?—A. Yes, sir.

Q. Do you know whether he has been released since you were there, from jail?—A. I do not know whether he has been released or not, sir. I at the time asked them if there was not anything against Allison, could he be released, and Mr. Kleiber said that the grand jury had indicted him, and of course he could be given bail, and he would give him \$500 bail, and that he would be glad to do it, but that he could not release him before the next term of court; that he would have to be tried. He may be out on bail or he may be released. I do not know, sir.

Q. You do not know anything about it?—A. No, sir.

Q. Now, I understood you to state that while you had been detailed to go there at the request of Colonel Glenn, yet you had nothing to do with his making that request for your detail?—A. No, sir.

Q. And you did not know that you were going to be ordered to go there?—A. No, sir.

Q. And you got your orders to go at 9 or 10 o'clock at night?—

A. I got the order at 9 or 10 at night, and that was the first I knew of it. I was out of the post the early part of the night and I did not know it until about between 9 and 10 o'clock.

Q. We had here an affidavit, which was read, of this man Dewalt. You heard the affidavit read, Lieutenant?—A. Yes, sir.

Q. And I did not observe anything, did you, that contradicted his statement to you about his not having been assaulted, if that is a correct way to put it, by Allison?—A. No, sir; I did not see anything to contradict that statement. He went on and said further that anything else further than what he said was not true.

Q. Did you talk with him about any other subject than that?—A. No, sir.

Q. Now, you say that the Mauser rifle that the Mexican soldiers carried was about .28 caliber?—A. Yes, sir.

Q. That is the 7-millimeter gun, is it not?—A. Yes, sir.

Q. While our gun is .30 caliber?—A. Yes, sir.

Q. Our bullets, I suppose, could not be fired out of a 7-millimeter or .28-caliber gun?—A. I do not think they could, Senator; it would be too tight.

Q. It would be dangerous?—A. It would be apt to explode the breech of the gun.

Q. Something was said here the other day when General Crozier was on the stand, about enlarging the bore of the Krag rifles so that they would accommodate the larger cartridge of the Springfield rifle. Do you know whether or not the bore of the rifle could be enlarged without injury to it?—A. I know that the box-magazine Winchester that fired that Krag ammunition is now on the market under the same model, and everything, that fires the Springfield; and the Krag, it seems to me, could be very easily reamed out, with a hand reamer, to take the Springfield ammunition, because the large part of the Springfield is one-fortieth of an inch larger, and the smaller part is only one-hundredth of an inch larger—I mean the Springfield ammunition—than the Krag.

Q. The bore would have to be lengthened, would it not, to accommodate the Springfield ammunition?—A. Well, you would have to bore down also for the bullets. You would have to make the bullet seat larger and longer to take the bullet. Of course the bullets of the two are of the same type.

Q. Now, if the Springfield bore is only one-hundredth of an inch greater in diameter than the Krag bore, the reaming out would have to be on each side of the circumference only one two-hundredth of an inch, would it not?—A. That is all, sir.

Q. How do we get these dimensions that you refer to, if you can tell us? They are not given in the official regulations for the use of the magazine rifle.—A. I do not know whether they are given in the publications of the Ordnance Department or not. I got them by measuring them.

Q. By what?—A. By making a measurement.

Q. You got them by measuring them?—A. Yes, sir.

Q. I will ask you to look at page 66 of the official publication I will hand you, entitled "Description and Rules for the Management of,"

of the United States Magazine Rifle, Model of 1898, and Magazine Carbine, Model of 1899, Caliber .30." Dimensions of the bore of the gun are given there in detail.—A. Yes, sir; here is "Diameter of bore, exterior diameter at muzzle, exterior diameter at breech, length of bore."

Q. I call your attention to this, beginning "Diameter of chamber."—A. Yes, sir.

Q. I wish you would just read what that says about the dimensions of the chamber of the rifle. I will read it and you look on and see if I read it correctly:

Length of travel of bullet in bore.....	28.23
Diameter of chamber, rear end.....	0.42
Diameter of chamber, front end.....	0.419
Diameter of neck of chamber, rear end.....	0.338
Diameter of neck of chamber, front end.....	0.334
Length of body of chamber.....	1.82
Length of shoulder of chamber.....	0.164
Length of neck of chamber.....	0.486
Length of chamber, including throat.....	2.33

I have read that correctly, have I?—A. Yes, sir.

Q. I call your attention to what appears at page 49 of the instructions issued by the War Department, 1904, for the use of the Springfield rifle now in use by the Army, and I read, as follows, the corresponding measurements:

Length of travel of bullet in bore.....	21.402
Diameter of chamber, rear end.....	0.4716
Diameter of chamber, front end.....	0.442
Diameter of neck of chamber, rear end.....	0.3425
Diameter of neck of chamber, front end.....	0.3405
Length of body of chamber.....	1.793
Length of shoulder of chamber.....	0.16
Length of neck of chamber.....	0.46
Length of chamber, including throat.....	2.488

Now, by deducting the smaller dimensions, as given, of the Krag from the larger figures, as given, of the measurements of the chamber in the Springfield rifle, we would get the exact difference, would we not?—A. Yes, sir.

Q. And I understand you to say you have ascertained by actual measurement that that difference would be less than one-hundredth of an inch as to the diameter of the bore at one point, and less than one-fortieth of an inch at another point?—A. Yes, sir.

Q. And that in determining the amounts of boring or reaming that would have to be done you would divide those dimensions, so that you would ream out less than one two-hundredths of an inch at one place and less than one-eightieth of an inch in another?—A. That reaming would be even around the barrel.

Q. It would be even on the diameter, but if you wanted to ream out on the diameter one-hundredth of an inch, you would ream out, at any one point, only one two-hundredths of an inch?—A. Yes, sir.

Q. Because that would be doubled?—A. Yes, sir.

Q. I asked you to do that, did I not?—A. Yes, sir.

Q. And as to the use of an acid on this lead filling which you had, you spoke to me about that, and I approved it and asked you then to go ahead and do it, did I not?—A. Yes, sir.

Q. It was your own suggestion, but you did it with my approval?—A. Yes, sir.

Q. Now, do you think that this reaming out that you speak of could be done without much trouble, and with a hand ream?—A. I think, sir, it can be done very easily with a hand ream. I have never reamed one, but I should think it could be done very easily, sir.

Q. Look at the rear end of the bore of this Krag rifle and see whether or not the barrel is thick enough to admit of that much reaming without, in your opinion, jeopardizing its strength [handing rifle to witness]?—A. Of course, any reaming would affect it, but I do not think it would affect it to such an extent that it would be dangerous to fire it.

Q. What is that?—A. Any reaming would affect it that way, but I do not think that that much reaming would make it dangerous to fire the gun. I would not hesitate a second to fire one.

Q. If you are reported as saying, in answer to a question put to you, when you testified before the Penrose court-martial, that you did not know whether or not you got out all of that bullet that you bored out of the post in front of Crixell's saloon, that, I understand you to say, is a mistake?—A. Yes, sir; I did not intend my statement to be that. If I made that statement, it was an error.

Q. Either you misunderstood the question, or it was a mistake in the answer?—A. Either I did not express myself clearly, or there was a mistake in taking it down, or afterwards in printing it.

Q. I understood you to say that Captain Hay, and Lieutenant Fitch, also represented the prosecution in the Penrose case, did they not?—A. Yes, sir.

Q. Both asked you to get information, or asked you about the points as to which you had gotten information?—A. No, sir; the only thing Captain Hay asked me, as I remember, was, would I see Mr. Kleiber and ask him to please send him that map of Brownsville.

Q. Captain Hay knew that you were then going to Brownsville?—A. Yes, sir.

Q. He asked you that before you went?—A. Yes, sir.

Q. It was no secret before you went?—A. No, sir; it was a department order, furnished to everyone.

Q. Nobody objected to your going, or objected to your testifying after you came back, did they?—A. No, sir; they objected to my testifying as an expert, because I was not an expert and I did not claim to be one.

Q. You did not claim to be an expert, did you?—A. No, sir.

Q. You give it as your opinion, as I understand you, that anyone who knows how to handle a hand ream could bore out one of these Krag barrels so that the Springfield cartridge might be fitted into it?—A. Yes, sir; I think any man in the West that is used to carrying firearms could do it very readily and easily. They are posted on those things, most of them, the rangers and ranchmen.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Did you ever ream out a barrel of one of them?—A. No, sir.

Q. Did you ever see anyone do it?—A. One of these guns?

Q. Yes.—A. No, sir.

Q. Do you know anything about the required strength of a barrel in order to resist the pressure in one of these high-power guns? Do you know the required strength of the barrel—of the steel?—A. No,

sir; I know it has to be a great deal stronger for high power, and I know there is a formula used—for so many grains, a certain strength of barrel—but I can not recall that formula.

Q. Do you know what the strength of barrel would have to be to resist the pressure in one of these high-power guns?—A. No, sir; I do not know the thickness required. I think the weight of the two guns is about the same. The Springfield may be a little heavier on account of having so much woodwork on it.

Q. I am asking you now purely with reference to the barrel; about reaming it out.—A. Yes, sir.

Q. You do not know whether reaming it out would render it unsafe to be fired or not?—A. Why, no, sir; I do not see how it would render it unsafe. It is 5 grains difference, and the difference of 5 grains is a great deal in white powder, but if that rifle is perfectly safe to be fired in action the number of rounds—200 rounds—that a man is supposed to carry on his person when he goes into battle, then it would certainly be safe to fire in hunting, a few shots at a time.

Q. After reaming out?—A. Yes, sir; after reaming out.

Q. Then if it was perfectly safe after reaming it out once, could you ream it out again, and would it still be perfectly safe?—A. Make it still larger?

Q. Ream it out a second time.—A. Of course every time you ream it out it reduces its strength.

Q. You do not know how much?—A. No, sir.

Q. Did you ever work in a machine shop?—A. No, sir.

Q. Did you ever handle a reamer?—A. Yes, sir; I have handled a reamer.

Q. Doing what?—A. Reaming out different pieces of iron and metal. I have fooled with guns a great deal.

Q. But you say you never attempted to ream out the barrel of a gun?—A. I never attempted to ream out the barrel of a gun, sir. I know it is a very simple thing, and I can do it. Anybody can take a reamer and put it in a brace and put it in a gun barrel and ream the barrel out.

Q. But you never saw it done?—A. No, sir.

Q. And never tried it yourself?—A. Never tried it myself; no, sir; but I would not hesitate to fire a gun which had been reamed out.

By Senator FORAKER:

Q. What is that answer?—A. If I had a box-magazine Winchester and wanted to ream it out and use this ammunition in it, I would ream it out and use it.

By Senator WARNER:

Q. Can not you use the Springfield ammunition in the Winchester rifle?—A. The Winchester, 1898 model, has a chamber—there are two different kinds, but the same model, the same length of barrel, the same number of turns in the barrel; and every other way they are the same, with the exception that the sighting may be a little higher, and the chamber is made to take the Springfield ammunition, while the other chamber is made to take the Krag ammunition. I did own a Winchester box-magazine rifle, and if I owned that gun now and wanted to use the Springfield ammunition, I would simply

go down to the machine shop and take a hand reamer and ream it out and go ahead and use the ammunition.

Q. But when it was fired out of the Winchester it would have the same number of lands as if fired out of a Springfield?—A. How is that?

Q. A bullet fired out of a Winchester rifle would have the same number of lands as if fired out of a Springfield?—A. I do not know, sir. The Springfield has got four lands. I do not know whether the Winchester has four or five.

Q. Have you not made any inquiries since you testified before?—A. No, sir; I intended to.

Q. My remembrance is that you did not know, at that time.—A. I intended two or three times to get a rifle and look, but never have done it.

Q. You never have done it?—A. No, sir.
Senator WARNER. That is all.

By the CHAIRMAN:

Q. Lieutenant Leckie, I understood you to say that a gun could be reamed out with a hand reamer with the tools they usually have on a ranch?—A. Sir?

Q. Did I understand you correctly, that a gun could be reamed out, to change the caliber, with a hand reamer and such tools as they ordinarily have at a ranch?—A. No, sir; not to change the caliber, Senator, but to change the seat.

Q. I was not quite certain whether I understood you.—A. No, sir. What I said was that the rangers and most ranchmen were familiar with firearms, and in the early days—

Q. That is what you said about the ranch?—A. That is what I said about a ranch.

Q. I understood you to say that it could be done with the tools that they had on a ranch?—A. No, sir; I did not say anything about tools on a ranch.

Q. It could be done at a ranch?—A. Yes, sir; it could be done at a ranch, if a man had a hand reamer and the tools.

Q. If you were going to do that, you would take the barrel apart from the wood, would you not?—A. I think it would be better to disconnect it. May I look at this rifle again?

Q. Yes; I just wanted to get at what would be done, the modus operandi.—A. (After examination of rifle.) Why, you can take the bolt out, sir, and then you could ream it.

Q. Then you would fasten the gun in a vise, would you?—A. Yes, sir; it would be better to fasten it in a vise.

Q. You would hold the gun in position in a vise, would you?—A. Yes, sir.

Q. Could you bore in from the breach and work your bit or reamer?—A. You would remove your bolt and work it in this way [indicating]. I have not tried it, Senator, but I would remove the bolt, and if the reamer was long enough I would have no trouble at all. In case the reamer was not long enough, then the gun would have to be dismantled.

Q. How long would the reamer have to be not to dismount the

gun?—A. The reamer would have to be the length of the bolt there, plus the length of the shell.

Q. Do you think there would be room enough to turn the brace here [indicating]?—A. You would have to put the reamer in here and bring the handle around here [indicating].

By Senator WARNER:

Q. That is, you would bring the handle around to the side of the gun, if you were going to do it?—A. Yes, sir; I would ream out the length of the shell first.

Q. You would ream out how great a length of barrel?—A. The length of the shell.

Q. The length of the shell?—A. Yes, sir.

Q. That would be all, would it?—A. Yes, sir; you would have to take a reamer that was of the same caliber.

Q. The same caliber as the shell?—A. Yes, sir.

Q. And it would have to be the length from the bolt here plus the length of the shell down to that point here [indicating], and then you would have to take another, a .30-caliber reamer, and ream out as far as the bullet would go, because the bullet would go farther in than in the Krag. You would have to ream out with one reamer a certain number of inches, 2 or 3, more or less, and then insert another one and ream an inch or less.—A. Well, the difference between this and the Krag ammunition.

Q. And then from there to the end of the barrel it would not require anything?—A. No, sir; the caliber is the same.

By Senator FORAKER:

Q. Did you say in answer to Senator Warner that you would have to bore out and make this chamber larger for a distance of 3 or 4 inches?—A. No, sir; I said the distance of the difference in the length of the ammunition.

Q. You would only have to enlarge it the length that the Springfield shell is greater than the Krag?—A. Yes, sir.

Q. And that is only about three-eighths of an inch?—A. I think that is only about three-eighths of an inch.

Q. But, whatever it may be, the dimensions I gave a minute ago, and which are in the record, will tell exactly what it would be?—A. Yes, sir.

Q. Now, are these Winchester rifles, which are changed to take this Springfield ammunition, reamed out after they are manufactured, or are they manufactured at the arsenal in the first place that way, if you know?—A. I don't know, sir. I do not think that the Winchester people would put in an entire outfit of machinery for making the same barrel which they already had—machinery which is very costly—for that difference, when they could simply ream it out.

Q. When they could ream it out?—A. Yes, sir.

Q. But you do not know about that?—A. No, sir.

Senator FORAKER. Very well; that is all.

By Senator SCOTT:

Q. Lieutenant, your investigations and what you discovered and your friendship for the officers and everything in connection with your trips to Brownsville would in no way influence your testimony

other than to give your very best judgment as to what you discovered?—A. That is all, sir. I am under oath, sir, and just actual facts are all I can testify to.

Senator SCOTT. That is all.

(Witness excused.)

TESTIMONY OF JOHN I. KLEIBER.

(The witness was sworn by the chairman.)

By Senator WARNER:

Q. Please give your name in full to the stenographer.—A. John I. Kleiber.

Q. What is your age, Mr. Kleiber?—A. I am 41 years of age.

Q. You are a lawyer by profession?—A. I am; yes, sir.

Q. What official position do you occupy in Brownsville, or in Cameron County?—A. I am district attorney of the twenty-eighth judicial district.

Q. That has several counties in it?—A. Five counties.

Q. District attorney is what we call in some places prosecuting attorney? You attend to all the business of the county?—A. Yes, sir; I represent the State in the district court—the circuit court, as they call it in some States.

Q. Were you in Brownsville the night of this shooting, the 13th of August?—A. No, sir.

Q. Where were you?—A. I was in Dallas, Tex.

Q. How soon after this did you return to Brownsville?—A. I returned to Brownsville, reaching there on the 18th of August; Saturday, I think; Saturday night.

Q. Brownsville is your home city?—A. Yes, sir.

Q. How long have you lived there?—A. Thirty-two years.

Q. Practically all your life?—A. Practically all my life; yes, sir; except while I was off at college; that has been my home.

Q. When did you return to Brownsville?—A. On Saturday night, August 18.

Q. And this shooting up of the town was Monday evening?—A. On the night of Monday, the 13th, and the morning of Tuesday, the 14th, so I am told.

Q. When you returned, did you see Major Penrose?—A. I first met Major Penrose on Monday, the 20th.

Q. You took up the investigation of this matter when you came back?—A. I did. The citizens' committee, when I reached Brownsville, stopped any further investigation, and I took up an official investigation as district attorney.

Q. Yes.—A. And I will state that the district judge came down. I wired him, and he came down on Tuesday, and we proceeded to investigate it together.

Q. That was Judge Welch?—A. Judge Welch, who has since been assassinated; yes, sir.

Q. You are quite well acquainted in Brownsville?—A. Yes, sir.

Q. And you continued the investigation of this matter?—A. Yes, sir.

Q. You continued it and conducted it before the grand jury, did you?—A. I did; yes, sir.

Q. Now, from the investigation that you made as an official, as district attorney, was there any evidence that came to you—I can not ask what came before the grand jury, because that would not be proper, but that came to your knowledge—tending to show that anyone excepting the colored troops did the shooting up of the town of Brownsville that night?—A. You say, did any evidence——

Q. Any evidence.—A. (Continuing.) Come before me tending to show that anyone excepting the colored troops did it?

Q. Yes.—A. No, sir; nothing at all; nor any intimation of a fact.

Q. What was the feeling of the people of Brownsville?

Senator FORAKER. Senator Warner, I would not go into that, it seems to me.

Senator WARNER. That is correct, Senator Foraker, that is correct; and I want to say to the committee that the only reason I did not put on Mr. Kleiber before you commenced was that he had gone over to New York. I am perfectly willing to stop right here.

By Senator FORAKER:

Q. I would like to ask you a question or two. Are you the prosecuting attorney, as we say up here?—A. Yes, sir; we use the expression.

Q. What are you, district attorney, Mr. Kleiber? Is that your title?—A. Yes, sir; I am district attorney of the twenty-eighth judicial district. We call it prosecuting attorney.

Q. As district attorney, or prosecuting attorney, it is your business to call witnesses and present them to the grand jury, is it not?—A. Yes, sir; all that I knew of, or that I had any reason to believe knew anything about it.

Q. Yes; so that you know all the testimony there is that was brought before the grand jury, do you not?—A. Yes, sir; I know all the testimony that was brought before them.

Q. This was a very important case, was it?—A. It was, sir.

Q. You gave particular attention to it, did you not?—A. I did; and I will state, if you will pardon me, right there, that as soon as I reached home, late Saturday night, on Sunday I proceeded to post myself as to what had passed, and on Monday it was such a serious matter that I wired the district judge, whose home was at Corpus Christi, to come down, and he came down and we worked together in the investigation.

Q. And you did everything that you could to get evidence that would enable you to indict somebody?—A. Well, we were not after indicting anybody, but we did everything we could to ascertain who the parties were who were guilty, and if we had sufficient evidence to make a prima facie against any individual or individuals we would indict them; but we were not seeking an indictment.

Q. And no one was indicted?—A. No, sir; the evidence was not sufficient.

Q. And you recommended, did you not, in your report to the grand jury that nobody be indicted?—A. I will not say that, sir; no. The grand jury, as a matter of fact, did not indict. Of course my duty ceases when I present the facts to them. Of course they pass on the question whether an indictment is to be found or not; and they did not find an indictment.

Q. Yes; and notwithstanding the fact that 12 men had been arrested civilly before that time.—A. Twelve men had been arrested, but never had been taken into custody, for reasons known to the committee. I need not go into that.

Q. They were left with the military authorities?—A. Yes, sir.

Q. And they were, at the time the grand jury was in session, under arrest at Fort Sam Houston?—A. So I understand. I know they were under military control.

Q. Now, you had before the grand jury all the testimony, I suppose?—A. Available.

Q. That was had by you at the time they were arrested?—A. Oh, yes, and perhaps more. I can not go into the evidence before the grand jury.

Q. Now, let me ask you about how you took this testimony before the grand jury—what your practice is. Is it reduced to writing?—A. It is.

Q. Taken in affidavit form?—A. In affidavit form. In narrative form, as a rule, and sometimes we have question and answer; but as a rule it is taken in affidavit form.

Q. It is my recollection that Senator Culberson, in a speech that he made to the Senate, embodied in his speech some affidavits that were taken before the grand jury?—A. I know nothing of that of my own knowledge. I heard he did.

Q. I want to predicate on that some questions. Has this testimony that was taken before the grand jury in this narrative form—the affidavits—been made public in any way?—A. Not to my knowledge, sir; not through me. I understand that Senator Culberson had copies of some of these affidavits, but he did not get them from me, nor did I know anything about it at all at the time. I have heard since that he had them.

Q. Is there any objection to the committee being furnished with copies of all that testimony?—A. We have no right to do that; as far as I am concerned I have no right; and I could not do it, because under the law of Texas all evidence taken before a grand jury is secret, with one exception. The language of the statute, if I remember it, is "except in the case of a judicial proceeding wherein the truth or falsity of anything testified to before the said body shall be in issue," or "shall be under investigation."

Q. Now, if it is contrary to the statute of Texas to make public in any way the testimony taken before the grand jury, how did it come that Senator Culberson got possession of that?

Senator TALIAFERRO. I submit that Senator Culberson is the proper person to tell us that.

The WITNESS. I do not know, sir, of my own knowledge.

By Senator FORAKER:

Q. Have you any assistants?—A. No, sir.

Q. We take anything here, whether it is upon personal knowledge or upon hearsay. About how many witnesses were examined before the grand jury on this matter?—A. On this matter, to the best of my recollection, from twenty to thirty; perhaps from twenty-five to thirty, more or less.

Q. We do not want anything we are not entitled to have, but we would like to have these affidavits.—A. I will state to the committee

if you will pardon me, that it would be a very great pleasure to me to furnish this committee with those affidavits. I know where they are. I can put my hand on them at any time. But under the law of Texas I am prohibited from so doing. If Senator Culberson got them, he got them without my knowledge, and he would not have gotten them from me.

By Senator FORAKER:

Q. Now, you superintended the collection of these bullets that have been collected and sent here as exhibits, did you—no; that was Mr. Creager.—A. Mr. Creager did that; yes, sir. The only bullet that I ever saw, I think, was a part of a bullet that young Garza picked out of the sideboard in his house.

Q. Now, in the investigation before the grand jury you proceeded upon the assumption that some of the negro soldiers had done the shooting, didn't you?—A. No, sir; I did not proceed upon any assumption.

Q. Was not that the general opinion in Brownsville?—A. I had no opinion about it, except such as I have formed from evidence. I want to say to the committee that my course throughout this whole matter has been that of an official trying to do his duty, not only to the people who we felt had been injured, but to the parties accused of having committed that injury, and although we were satisfied from the evidence, and the grand jury reported to the court, that this shooting had been done by men of the Twenty-fifth Infantry, yet that the evidence did not point with sufficient certainty to any individual or individuals to justify or warrant them in bringing in an indictment and presenting these parties.

Q. Now, one other thing. This man Allison who was indicted. he was an ex-soldier and he was indicted, was he?—A. Yes, sir; he was indicted for an assault with an intent to commit murder.

Q. How long has he now been in jail?—A. I don't know whether he is in jail now or not. He was in jail in March. I have not been home more than a day or two since March.

Q. You say you don't know whether he is in jail now?—A. No; he may have given bond, Senator.

Q. You have not heard that he has been released within the last few days?—A. No, sir; I have no intimation. He may be on bond or he may be in jail.

Q. Did you see any bullets except those that were sent to us?—A. Well, I have seen a number of bullets, Senator. I have seen some of the bullets of the Cowen house, but of course I could not identify them again, because I am no expert at all. I am not familiar with bullets; but I have seen a number of bullets; yes, sir.

Q. We have had nine sent to us. What I wanted to know was whether any others had been brought to your knowledge except those that have been sent to us—brought to your knowledge as district attorney?—A. Those that came to you came through Mr. Purdy: through the executive department. They were in the possession of the grand jury and of the sheriff. We had those before us, and, in fact, it was through me that Mr. Purdy obtained those bullets and those empty shells and clips and the bandoleer from the sheriff, who was the custodian.

Q. You turned them all over to him?—A. That is; the sheriff turned them over in my presence to Mr. Purdy.

Q. And all that you had?—A. Yes, sir; all that we had.

Q. And all the shells?—A. Yes, sir; all the shells that we had, to my knowledge.

By Senator SCOTT:

Q. We had a lady here from Brownsville—Mrs. Leahy.—A. Mrs. Kate Leahy.

Q. In response to a question I asked her she said she saw one of the men that did the shooting, and she said that she saw him afterwards in Captain Lyon's company, and that she could pick him out of—I don't know how many men—but that she could pick him out. Now, did you have any such knowledge that she had that information, and why didn't you have her before your grand jury and pick the man out?—A. Simply because we had no knowledge of it, sir. I never heard of it until, I think, Mrs. Leahy testified before the Penrose trial—did she not?

The CHAIRMAN. Yes.

A. Yes, sir. I then ascertained it for the first time. I did not know it. In other words, it is a fact that Mrs. Leahy did not disclose; and I could tell you why, I think, she did not. I think she was afraid to.

Q. I do not know that it would be pertinent for me to say to the committee, but she told me the reason why that you did not serve her with any summons.—A. Mrs. Leahy was never summoned before the grand jury because no one ever had any intimation that she knew anything about the matter at all.

Q. You knew that she testified that she was not afraid?—A. That was at the Penrose court.

Q. But here she testified that she was not afraid of anything.—A. I saw it in the Post; yes, sir. I smiled, a minute ago, to myself.

Q. You say she was afraid?—A. No; I do not say she was afraid. I said I presumed she was.

By the CHAIRMAN:

Q. As a matter of fact, was she examined before the grand jury?—A. She was not, because no one ever had any intimation—I certainly did not, nor did any member of the grand jury—that Mrs. Leahy knew anything about this matter, one way or the other.

By Senator SCOTT:

Q. Would it not be natural to presume that she did know more than anybody else, when she was right there, almost the nearest house to the barracks?—A. I did not know that she did. Lots of people lived around those barracks that never came out. I did not know where Mrs. Leahy was.

Q. You did not know that she protected Mr. Cowen's family that night?—A. All I knew about that at that time was that after the shooting, so I understood, in fact Mrs. Cowen told me, that after the shooting she had gone with her children over to Mrs. Leahy's, and that Mrs. Leahy had taken them in.

Q. Would it not be rather natural that you would have such a person summoned before the grand jury?—A. You mean everybody in the neighborhood?

Q. No; I mean the lady of this house that had been shot into!—
A. Mrs. Leahy's house was not shot into.

Q. We will say that it was not shot into, but she testified here that she saw them within 35 feet.—A. It first came to my knowledge—the first intimation that I had that Mrs. Leahy knew these things—at the Penrose court. I did not know it before, or when the grand jury was in session.

Q. Do you, as prosecutor, consider that the grand jury did everything in their power to find out who did this shooting?—A. Yes, sir; they did.

By Senator FORAKER:

Q. What was the remark you made as to Mrs. Leahy, as a reason why you did not call her?—A. The reason why we did not call her was because we did not know—we had no intimation that she knew anything of this.

Senator FORAKER. I should like to hear the testimony read, what the witness said about her being afraid.

The official reporter read as follows:

By Senator SCOTT:

Q. We had a lady here from Brownsville—Mrs. Leahy.—A. Mrs. Kate Leahy.

Q. In response to a question I asked her she said she saw one of the men that did the shooting, and she said that she saw him afterwards in Captain Lyon's company, and that she could pick him out of I don't know how many men, but that she could pick him out. Now, did you have any such knowledge, that she had that information, and why didn't you have her before your grand jury and pick the man out?—A. Simply because we had no knowledge of it, sir. I never heard of it until, I think, Mrs. Leahy testified before the Penrose trial—did she not?

The CHAIRMAN. Yes.

A. Yes, sir. I then ascertained it for the first time. I did not know it. In other words, it is a fact that Mrs. Leahy did not disclose, and I could tell you why I think she did not. I think she was afraid to.

By Senator TALIAFERRO:

Q. In that connection, there was a great deal of excitement there at the time at Brownsville?—A. Yes, sir.

Q. If Mrs. Leahy had been alarmed, it would have been no discredit to her?—A. Not at all.

Q. The town, I fancy, was full of people who were restless and alarmed?—A. I was very alarmed and restless myself, sir, until the troops left, and things quieted down.

By Senator FORAKER:

Q. Mrs. Leahy is a woman who talks rather freely, is she not?—
A. Well, no; I will not say that.

Q. You would not say that?—A. No; I would not say that.

Q. I supposed, from our observation of her, that she was a woman who would be apt to tell any important fact that she might know of such an event?—A. She might.

Q. You made an effort, did you not, to get everybody before the grand jury?—A. I did; everybody who could possibly know anything or probably know anything.

Q. Did you have Mr. Cowen there?—A. Yes, sir.

Q. And Mrs. Cowen?—A. No, sir; Mrs. Cowen was ill. We did not have her, but I talked with her.

Q. Did you have the two policemen?—A. Yes, sir.

Q. The two policemen who were in the custody of Mrs. Leahy that night?—A. I do not know who those policemen were. I thought you meant the policemen that were on the street. I never heard about the policemen being at Mrs. Leahy's house until the Penrose court. She never has to my knowledge disclosed the names of those policemen, so I can not tell you whether we had those policemen before us or not.

Q. You did not have Mrs. Leahy before the grand jury?—A. No, sir; for the reason I have given.

Q. That is, because you did not know at that time?—A. Did not know and had no reason to believe that she knew.

Q. About how long after this shooting did the grand jury meet?—A. About three weeks.

Q. The subject was talked about every day and every hour in the day, was it not?—A. Yes, sir. When the grand jury met things were very much excited, and, in fact, we had people before the grand jury who said they were afraid to say anything before, and that they would only testify in the secrecy of the grand-jury room.

Q. We do not want the testimony given before the grand jury, unless you are willing to give it.—A. You asked me about the condition of affairs.

Q. Please pay attention to the question, whether this subject was not talked about every day there?—A. Oh, yes.

Q. In that community?—A. Certainly.

Q. In the three weeks intervening after the shooting down to the time when you took up this grand-jury investigation?—A. Certainly, sir.

Q. And you were trying all the while to get all the testimony you could as to the identity of these men?—A. Yes, sir.

Q. And during all that time you did not hear that Mrs. Leahy had any such knowledge as she testified to before the Penrose court-martial and before this committee?—A. I never knew of it, sir, until that time. Pardon me, I should like to correct that. Did not Mrs. Leahy give Mr. Purdy an affidavit along those lines?

Q. Yes; I believe so.—A. Now, I will correct that.

Q. You did not know it until that time?—A. Not until she gave that affidavit to Mr. Purdy, which was last December or January.

Q. Do you know how Mr. Purdy happened to examine her, upon whose suggestion? How did Mr. Purdy ascertain about it?—A. He was living at her house, and I think she told him then for the first time. I knew he boarded at her house.

By Senator TALIAFERRO:

Q. Is it permissible under the laws of Texas to reveal the names of your witnesses before the grand jury?—A. Oh, yes; it is permissible.

By Senator WARNER:

Q. This man Allison was indicted?—A. Yes, sir.

Q. Was he indicted for any other reason than that a prima facie case was made that he had committed the offense charged?—A. He was indicted because at least nine men of the twelve concluded that a prima facie case had been made against him for the offense charged.

Q. You knew Lieutenant Leckie?—A. Yes, sir.

Q. When he was at Brownsville, did he have an interview with you

in the presence of Dee Dewalt?—A. Yes, sir; the party alleged to have been assaulted by Allison.

Q. What was that interview? Just state.—A. Mr. Leckie came down to Brownsville during the latter part of the Penrose court and wanted to see Allison, who was in jail, and I understood he was looking for me. I called up the jail, and Mr. Leckie was already up there and I told the sheriff to allow Mr. Leckie access to the prisoner, to allow him to speak to him in private. Meantime I had a talk with him over the 'phone. He said he wanted to talk to Allison, and also he said he wanted a copy of the indictment. I told him that I would instruct the clerk to prepare him a certified copy of the indictment. That afternoon Mr. Leckie came down to the clerk's office while I was there and said that he had been talking with Allison. He also spoke about Dewalt, and I understood him to say that Dewalt wanted to claim that he had not been assaulted. I sent for Dewalt. He came to the clerk's office, and he and Mr. Leckie and I went out into the back room—the warehouse. Dewalt was under the influence of liquor pretty fully, and I said to him, "Dewalt, I understand from Mr. Leckie that you deny that you were assaulted at any time by this man Allison." I said, "Didn't you state so and so to me in regard to it?" He hesitated and started to stutter, and he was pretty full. Finally he admitted that he had made this statement to me and that it was true.

Q. What statement?—A. That Allison had made this assault upon him. I also said to him, "Don't you know that William Henry was there, and that Steve Taylor was there, and that William Henry and Taylor, or one of them, disarmed Allison, took the pistol away from him?" They were all colored men. Dewalt said, "Yes, it was so," that he had told me so, that he did not remember seeing Allison with the pistol, but did remember that Allison did come in, and used the language that he was going to do him up, and that Allison went to the back room and came back, and that those other darkies disarmed him. Finally, he excused himself. He said, "I am pretty full, Mr. Kleiber." I said, "Yes, you are pretty full, but I wanted to speak to you in Mr. Leckie's presence, as I understand you are denying this and I want to refresh your memory." He said he understood it, and he walked off.

By Senator FORAKER:

Q. Right there, did he deny that he had told Lieutenant Leckie what Lieutenant Leckie had reported to you?—A. I don't know that he either denied it or affirmed it. Of course, when Lieutenant Leckie reported to me that the fellow denied it I believed Lieutenant Leckie. I had no reason to doubt Lieutenant Leckie, but I wanted myself placed right with Lieutenant Leckie. That is why I sent for him. I have no doubt that Mr. Leckie told the truth and that Dewalt may have told him this, but I wanted to face Leckie with Dewalt and have the truth from him. I wanted Mr. Leckie to get the truth. I did not want Mr. Leckie to go away with the impression that this man Allison had been indicted without good reason.

Q. I understand Mr. Leckie to state that Mr. Dewalt told him that Allison had not assaulted him, and that he reported it to you and that you sent for Dewalt, and I understand Mr. Leckie to say that Mr. Dewalt admitted that he had told Leckie that, but admitted to you

that he had told the other thing?—A. That is right; and, furthermore, he admitted to me in the presence of Mr. Leckie that what he had told me was true.

Q. And he admitted in your presence and Mr. Leckie's presence that he had told Mr. Leckie the other thing?—A. Well, he did not say it in so many words, but you would conclude that from the general conversation.

Q. He did not deny that he had told Mr. Leckie that?—A. No, sir; and I myself believed that he had told Mr. Leckie that, else I would not have sent for him.

Q. In other words, there is no contradiction between you and Mr. Leckie about it?—A. Not necessarily, for Mr. Leckie admits the conversation with Dewalt. That is what he testifies to.

By Senator TALIAFERRO:

Q. Did you send for Dewalt?—A. Yes, sir. As soon as Mr. Leckie told me this, I went right in to the clerk. In fact, Mr. Leckie told me that in the clerk's office, and I went right into the clerk and asked him to send a striker out to get Dewalt.

Q. I understood from Lieutenant Leckie's testimony that he made an appointment with Dewalt to meet him at your office?—A. No; I sent for Dewalt. He may have met Dewalt himself afterwards and made the appointment. That is possible; but I sent for him. He and Mr. Leckie may have met on the street.

Q. Yes; he said they met at the saloon.—A. Perhaps so.

By Senator FORAKER:

Q. Now, Mr. Dewalt has made an affidavit before Louis Kowalski, clerk of the district court of Cameron County, Tex., in which he says:

On the following day we met at the office of Mr. Louis Kowalski, clerk of the district court of Cameron County, Tex., and in the presence of the Hon. John I. Kleiber, whom I requested to be present when I had the conversation with Lieutenant Leckie, so that he might hear what I had to say. Lieutenant Leckie asked me—

And so forth. That is to say, according to Mr. Dewalt, you were present because he made the request.—A. I think, gentlemen, that is immaterial. As a matter of fact, I sent for him. Mr. Leckie says, according to Senator Taliaferro, that he made the interview.

Q. He may have sent for you, but you sent for him?—A. I am very clear about that. The minute Mr. Leckie told me this I went to the clerk and asked him to send for Dewalt, as I wanted the matter cleared up at once, before Mr. Leckie left town.

TESTIMONY OF CAPT. JOHN H. RICE, U. S. ARMY.

Capt. JOHN H. RICE, U. S. Army, being first duly sworn, testified as follows:

By Senator LODGE:

Q. Give your full name.—A. John H. Rice.

Q. You are a captain in the Regular Army?—A. Yes, sir; a captain in the Ordnance Department of the Army.

Q. Stationed here in Washington?—A. Yes, sir.

Q. Captain Rice, did you take part in those tests which General

Crozier made and testified to, in regard to the cleaning of guns!—
A. Yes, sir; I did.

Q. Were you a witness to all the tests that were made?—A. Yes, sir.

Q. Did you inspect the guns after the cleaning?—A. I did.

Q. Were the guns clean enough to have passed an inspection directed to telling whether the gun had been recently fired?—A. All those that were cleaned would have passed an inspection.

Q. Did you clean any of them yourself?—A. Yes, sir; I cleaned one of those that was cleaned in the dark, and I cleaned some of the others. I don't remember the exact number. There were quite a number altogether cleaned, and one other man and myself did the work. Sometimes he did it, and sometimes I did it.

Q. Mr. Palmer was the name of the other man?—A. Yes, sir.

Q. And those guns that you and Mr. Palmer cleaned you examined carefully after the cleaning?—A. Yes, sir.

Q. And in your judgment they would have passed an inspection directed to determining whether they had been recently fired?—
A. Yes, sir.

Q. How long have you been here in the Ordnance Department?—
A. In Washington, do you mean?

Q. In Washington.—A. Since a year ago last April.

Q. How long have you been in the Ordnance Department?—
A. Since December, 1898.

Q. Before that you were where?—A. I was in the cavalry.

Q. And did you there inspect rifles at regular inspections?—A. I inspected carbines; yes, sir.

Q. They were the Krag carbine, were they?—A. Yes, sir.

Q. And you inspected those when inspections occurred?—A. Yes, sir; not always, but frequently.

Q. So that you are familiar with the work of inspecting a rifle, from having done it a great deal?—A. Yes, sir.

Q. You cleaned the gun that was cleaned in the dark?—A. Yes, sir.

Q. And what was the condition of that barrel when you examined it afterwards?—A. As far as you could tell by the eye, it was perfectly clean. There was no examination made with a cloth at the time, but it was carefully examined by sighting through it and using a reflector to throw the light into the barrel.

Q. Do you mean something white?—A. Yes, sir; a white piece of paper.

Q. And at that time it appeared clean, without subjecting it to the test of a rag?—A. Yes, sir.

Q. Suppose that a gun cleaned in that rapid way were allowed to stand, would it, in your opinion, foul the gun?—A. It would.

Q. In the course of two or three days?—A. Certainly in the course of two or three days it would. In that connection I would state that I have not made that experiment myself, but that is a matter of general knowledge with anyone who has had experience with these guns.

By Senator FORAKER:

Q. When was this inspection made?—A. On June 5, at about one o'clock.

Q. June 5 of this year?—A. Yes, sir. I presume you refer to the one that we were just talking of?

Q. Yes; the one when you cleaned a gun in a minute, in the dark.—

A. Yes, sir; that was June 5.

Q. That was by the use of the thong brush?—A. Yes, sir.

Q. How many times did you draw the thong brush through?—

A. Five times.

Q. And you were in the dark, and you could draw the thong brush through, and you say you drew it through five times?—A. Yes, sir.

Q. Can you tell us on what date it was that General Crozier testified?—A. June 6.

Q. He testified the day following this experiment, did he not?—

A. He did.

Q. Within twenty-four hours after this cleaning and inspection took place?—A. Yes, sir.

Q. About what time in the day was it when you inspected this gun after cleaning it?—A. About 1 o'clock.

Q. About 1 o'clock in the day, and he testified the next morning. I wish you would look at the gun now that you cleaned, and tell us whether it is in the same condition it was when you cleaned it. I wish you would look at that gun and tell us whether that is the gun.—A. I don't know the gun, sir.

Q. But you can tell by looking at it as to whether it is clean or not. I wish you would inspect it and see.—A. (Inspecting one of the rifles.) That one is not.

Q. That one is not clean. Now look at the gun I hand you.—A. (After inspecting the rifle.) That is not, either.

Q. That is not clean either, is it? How does it compare with the other gun?—A. There seems to be very little difference between them.

Q. Very little difference. One is just about as dirty as the other?—A. Yes, sir; they seem to be about the same.

Q. Just about the same. If you did not know anything about the gun you would not know they had ever been cleaned, would you, Captain?—A. No, sir.

By Senator BULKELEY:

Q. Has not one of those had a rag run through it since it has been in this room?

Senator FORAKER. Yes; the second gun examined by the witness was the gun that was cleaned, or said to have been cleaned, and since this gun which the witness cleaned in that way was presented here by General Crozier it has had a rag run through it.

By the CHAIRMAN:

Q. Witness, I want to ask you for information. When I used to go hunting and had a gun standing about, I had to clean it every few days or dust got into the barrel. What is done with guns in the companies in that regard when once cleaned? How long before they are expected to have to be cleaned again without firing?—A. Well, I am not familiar with that at the present time. In the time when I was in the cavalry they usually oiled them after they were cleaned, and then before an inspection they would wipe the oil out with a rag, which would remove the dust.

By Senator FORAKER:

Q. When a gun is thoroughly cleaned it does not foul up, does it?—A. It depends upon what you mean, sir, by "thoroughly cleaned."

Q. I mean all the powder, all the stains of the powder gases, removed—when a gun is perfectly clean, if that is the better expression.—A. When a gun is perfectly clean it will not clog up again if it is oiled.

Q. It will remain bright?—A. If it is oiled.

Q. Indefinitely?—A. Yes, sir.

By Senator LODGE:

Q. If it is oiled?—A. Yes, sir; if it is oiled.

By Senator FORAKER:

Q. Is not that a part of the cleaning of guns under the regulations obtaining in the Army?—A. That also depends. If a man were going to inspection, he would probably not oil his gun. If he were going to put it away for keeping, he would oil it.

Q. Well, the testimony before this committee is that in the Twenty-fifth Infantry they were not only required to clean the guns in the way they have described, but to oil them after they cleaned them. Now, when so cleaned, you think they would remain bright, don't you?—A. If they had been thoroughly cleaned, which could not be done in one time.

By Senator LODGE:

Q. "Which could not be done in one time." You mean, could not be done in one cleaning?—A. Yes, sir; no matter how much you cleaned it at one time it would again become dirty within twenty-four hours.

By Senator FORAKER:

Q. Do you mean to tell us that you could not at one time thoroughly clean a gun?—A. Yes, sir.

Q. How long were you serving in the cavalry?—A. Five years and a half.

Q. What years were they?—A. 1893 to 1898.

Q. And during all that time the cavalry was armed with the Krag carbine, was it?—A. No, sir.

Q. So I understood. What time was it so armed?—A. The Krag carbines were issued, I think, in 1894.

Q. In 1894?—A. In 1894. I am not absolutely sure of the date. When I first joined from West Point they had the old Springfield .45.

Q. A different kind of a gun?—A. Entirely different.

Q. And they used black powder, didn't they?—A. Yes, sir.

Q. Didn't they use black powder in the Krag carbine all the time you served in the cavalry?—A. They did not.

Q. What time did they commence to use smokeless powder?—A. My recollection is that it has always been used—

Q. Always since the beginning of the use of the carbine by the Army?—A. Yes, sir.

Senator LODGE. The Krag carbine.

By Senator FORAKER:

Q. I mean the Krag carbine; and the same as to the Krag rifle?—

A. Yes, sir.

Q. So that when our troops went down to Cuba at the beginning of the Spanish-American war they were all armed with the Krag rifles, and they all used smokeless powder?—A. That is my understanding—all the regular troops.

Senator LODGE. That is correct.

By Senator FORAKER:

Q. All the regulars?—A. Yes, sir. Some volunteers had the old .45 Springfield and the black powder.

Q. But all the regulars had the metallic cartridge, with smokeless powder, at that time?—A. Yes, sir.

Q. Now, were you a company commander during this time that you served in the cavalry?—A. I was a second lieutenant, and therefore not ordinarily company commander. I have, however, done a good deal of service in command of troops.

Q. You served in the Philippines?—A. As an ordnance officer; yes, sir.

Q. And you served there as an ordnance officer during what years?—A. 1901 to 1903.

Q. Now, tell us how this gun that you have just examined compares with the condition it was in after you got through cleaning it.—A. There is no comparison at all. It was perfectly bright after I cleaned it.

Q. Could that gun have been as dirty the following day as it is now?—A. That I can not answer. I should say not.

Q. Well, a good many of us looked at it the day it was brought in here, and some of us would like to testify about it, I think. At any rate, General Crozier testified here the day afterwards that it had been cleaned by you. You recognize, Captain, that it is not now a clean gun?—A. Certainly.

Q. You made a report, which was a part of Mr. Purdy's report, did you not?—A. I did; yes, sir.

Q. I notice, without going into it in detail, because it is all before us, that you speak of 438 Winchester rifles being specially chambered for the Springfield cartridge.—A. Yes, sir.

Q. What do you mean by that—that they were chambered after they had been manufactured at the arsenal?—A. They were manufactured by the Winchester people. My understanding is that they are chambered at the time of manufacture.

Q. Well, was that your understanding when you made this report?—A. It was my understanding. I do not know that it appeared in any way in the report.

Q. This appears, and I want to ask you about it:

Q. Do you know of any rifle in which this ammunition I have shown you can be used, other than in the Springfield rifle?—A. It will fit the Winchester rifle, model of 1895, when specially chambered.

Then you add:

Only 438 have been thus changed.

Now, when you used that expression, didn't you mean that those Winchester rifles had been reamed out so as to accommodate this cartridge after they had left the arsenal where they were manufactured?—A. No, sir; I never had that idea at all.

Q. Do you know whether a rifle can be reamed out—that is, the bore enlarged? Take a Krag rifle, for instance. Can it be reamed out sufficiently to accommodate a Springfield cartridge?—A. Yes, sir; it could be.

Q. That would not be a difficult matter, would it?—A. It would depend upon circumstances again. It would be a difficult matter unless you were prepared for it; supplied with the tools. Otherwise it would be comparatively simple.

Q. What kind of tools would you require—anything except a reamer?—A. Well, you should have a set of reamers. They generally use more than one; and you should have the power with which to do it.

Q. Do you think it could not be done with a hand reamer?—A. I think it might be done that way.

Q. In the books of instruction for the use of the magazine rifle are given the dimensions of the chamber of the Krag rifle and also of the Springfield rifle, are they not?—A. I don't remember whether they are in there or not, sir.

Q. I call your attention to some tables. This book which I show you is the Krag book, is it not, Captain?—A. Yes, sir.

Q. Now, I call your attention to a table at page 66, and ask you if that does not give the dimensions of the chamber?—A. Yes, sir; it does.

Q. That is, for the Krag. Now, are not the same items given for the Springfield at page 49 of the Springfield book of instructions?—A. Those seem to be the same dimensions.

Q. By taking the dimensions of the Springfield, which is chambered to accommodate the larger cartridge, and deducting the dimensions given for the Krag, you would get exactly the amount of enlargement that it would be necessary to make if you were going to ream it out so as to accommodate the larger cartridge?—A. Yes, sir.

Q. I have made a little calculation on that, which I want to put in evidence myself, if you will look at it. I call your attention to the Springfield, diameter of chamber at the rear end 0.4716. That is correct, is it not—0.4716 of an inch?—A. Yes, sir.

Q. Now, the diameter of the Krag at the rear end is 0.462. is it not?—A. Yes, sir.

Q. By deducting the one from the other, you would have left the difference, which is 0.0096, would it not?—A. Yes, sir.

Q. And that would be less than one-hundredth of an inch, would it not?—A. Yes, sir; that is four ten-thousandths less than a hundred.

Q. It would be less than a hundredth of an inch that you would have to enlarge it in diameter?—A. At the rear end; yes, sir.

Q. Now, to bore it out, one-half of that would be borne by each side of the circumference, would it not?—A. Yes, sir.

Q. So that you would have to bore it only to the extent of one two-hundredths of an inch?

Senator WARNER. There can not possibly be any dispute about that.

By Senator FORAKER:

Q. I only want to get it of record.—A. One two-hundredth of an inch—that is, on the radius. Of course you have to cut out all the metal.

Q. But I mean you enlarge the radius one two-hundredth of an inch and you enlarge the diameter one one-hundredth, or less than one-hundredth of an inch?—A. Yes, sir; you enlarge the radius about one-half of a hundredth.

Q. Is it one-half of a hundredth, or one two-hundredth?—A. That is the same thing.

Q. Well, you enlarge the diameter 0.0096, do you not?—A. Yes, sir.

Q. Which is less than one one-hundredth of an inch?—A. Yes, sir.

Q. Then you would enlarge the radius one-half of that, wouldn't you?—A. Yes, sir.

Q. Which would be less than one two-hundredths?—A. Yes, sir.

Senator WARNER. Senator Foraker, are you entirely correct about your premise there?

By Senator FORAKER:

Q. I am trying to find out by asking the witness, who is an expert. Now, Captain, you will observe by looking at the paper I hand you that I have made that same kind of a calculation as to each item entering into the dimensions of the chamber, have I not?—A. It appears that way. I should have to compare it, of course, in order to know.

Q. Whether or not it is correct will appear by calculation?—A. Yes, sir.

Q. So we need not stop to go over it in detail?—A. No, sir.

Senator FORAKER. I should like to put this table in the record, in connection with Captain Rice's testimony.

The CHAIRMAN. Will the Senator please state what it is.

Senator FORAKER. It is a statement of the results of a calculation made as to the extent to which the dimensions of the chamber of the Krag rifle would have to be enlarged in order to accommodate a Springfield cartridge.

The CHAIRMAN. A calculation made on the authority of some one else, or on your authority?

Senator FORAKER. On the authority of these books.

The CHAIRMAN. You present it as a summing up from these books?

Senator FORAKER. Yes; it is a calculation which I have made.

The table is as follows:

Springfield, diameter of chamber at the rear end	0.4716
Krag, diameter of chamber at the rear end4620
	.0096
or less than one one-hundredth of an inch.	
Springfield, diameter of chamber at the front end442
Krag, diameter of chamber at the front end419
	.023
or less than one-fortieth of an inch.	
Springfield, diameter at the neck of the chamber (rear end)3425
Krag, diameter at the neck of the chamber (rear end)3380
	.0045
or less than one two-hundredths of an inch.	

Springfield, diameter neck of chamber at front end-----	0. 346
Krag, diameter neck of chamber at front end-----	. 334
	<hr/>
	. 006
or less than one one hundred and twenty-fifth of an inch.	
Springfield, length of body of chamber-----	1. 736
Krag, length of body of chamber-----	1. 620
	<hr/>
	. 116
or less than one-fifth of an inch.	
Springfield, length of shoulder of chamber-----	. 100
Krag, length of shoulder of chamber-----	. 164
	<hr/>
	+ . 004
	<hr/>
Springfield, total length of chamber-----	2. 488
Krag, total length of chamber-----	2. 330
	<hr/>
	. 158
or less than one-fifth of an inch.	

By Senator FORAKER:

Q. If you find that I have made any mistake in these figures, will you please point it out when you examine the printed copy?—A. Yes, sir.

Q. Now, Captain Rice, we have had some testimony here from General Crozier and others about the drift of a bullet. Can you tell us what the drift of a bullet is when it is fired out of this modern Springfield rifle?—A. Do you mean whether it is to the right or to the left?

Q. Yes; or both, and to what extent?—A. I have no personal experience with it, but my understanding is that it is at first to the left and then to the right.

Q. That is given in this book, also, is it not?—A. I think it is; yes, sir.

Q. Can you tell how much it is to the left?—A. Not offhand; no, sir.

Q. Nor how much it is to the right?—A. No, sir; I have not the figures in mind.

Q. You would not carry those, I suppose, in your mind; but I want to call your attention to a table which shows it. I call your attention to page 43 of the Springfield rifle instructions, issued by the War Department, No. 1923, and ask you if that is not based on practical experiments by experts to determine it?—A. Yes, sir.

Q. That is not the table I have in mind. There is another one here somewhere. I do not find it. I wish you would look for that table.

Senator WARNER. Didn't you put it in the testimony when General Crozier was on the stand?

Senator FORAKER. I think I did.

Senator WARNER. You have got it in the evidence.

Senator FORAKER. Well, we will supply it, if we can.

Senator WARNER. That can be supplied at any time.

Senator FORAKER. We will pass that, on the theory that it is already in.

Senator WARNER. If it is not, it can be supplied at any time.

By Senator FORAKER:

Q. I will ask you whether the drift is the same out of the Krag rifle that it is out of the Springfield?—A. I do not know.

Q. You do not remember about that?—A. No, sir.

Q. I call your attention to a table at page 56 of the Krag book of instructions issued by the War Department, and ask you to note that it gives the drift to the left, at 100 yards from the muzzle of the gun, as 2.5 inches, and that increases until at the distance of 600 yards it is 8.5 inches to the left; then it commences to turn towards the right and crosses the line after it passes 1,100 yards, does it not?—A. Yes, sir.

Q. At 1,100 yards it is 0.3 of an inch to the left?—A. Yes, sir.

Q. Then it goes to the right from that on up to 2,000 yards, does it not?—A. Yes, sir.

Q. How much is to the right at that time?—A. Fifty-two and one-tenth inches.

Q. Now, I note the statement that with the carbine the drift is always to the right?—A. Yes, sir.

Q. Can you tell us why that is?—A. Nobody knows, as far as I know.

Q. Does it not depend upon the length of the bore through which the bullet travels?

Senator WARNER. They are both of the same length now.

A. This refers to the old one. If anybody knows just why it is, I have never heard it.

By Senator FORAKER:

Q. Have you ever studied that at all?—A. Not specially; no.

Q. Captain, is it not true that the drift of the bullet out of the Krag carbine is all the while to the right and that the carbine is much shorter than the rifle?—A. It is true; yes, sir.

Q. In the Krag rifle the length of travel of the bullet in the bore is given as 28.239 inches, and only 20.239 inches for the carbine?—A. Yes, sir.

Q. Now, what is the travel of the bullet in the bore of the Springfield?—A. You are more familiar with this book, possibly, than I am. I have not studied it recently.

Q. What is the length of travel of the bullet in the bore?—A. It is 21.402 inches.

Q. Now, the Springfield is the shortest of all these guns, is it not?—A. No, Senator; it is not shorter than the carbine.

Q. No; the carbine is the shortest of all the guns.—A. Yes, sir.

Senator WARNER. Senator Foraker, are not the Springfield carbine and the Springfield rifle the same length?

Senator FORAKER. They are the same; yes. We have just three lengths—the Krag rifle, the Krag carbine, and now you have before you the length of the travel of the bullet in the bore of the Springfield.

A. Yes, sir; 21.402.

Q. But for the Krag carbine it is only 20.239?—A. Yes, sir.

Q. So the Krag is the shortest of all?—A. Yes, sir.

Q. That is, the shortest one of all drifts the bullet all the time to the right?—A. Yes, sir.

Q. Never to the left?—A. No, sir.

Q. Now, the length of travel of the bullet in the bore of the Krag rifle is longer than it is in the bore of the Springfield, isn't it?—A. Yes, sir; it is.

Q. And in this longest gun of all there is a drift to the left of over 8 inches, is there not, before it turns to the right, as we saw a moment ago—8.5 inches at 600 yards, drift to the left?—A. Yes, sir.

Q. And then it turns and goes to the right, reaching 52.1 inches at 2,000 yards?—A. Yes, sir.

Q. So that the longest bore gives the greatest drift to the left, and the greatest drift to the right, also, does it not?—A. I will have to look at the figures to answer. It gives the greatest drift to the left of any of those that I have seen.

Q. Now, does not that teach us that the length of the bore that is traveled by the bullet determines the drift of the bullet?—A. That I could not answer.

Q. How long have you been connected with the Ordnance Department?—A. Since 1898.

Q. And you have never had occasion to study that subject?—A. No, sir.

Q. When a bullet is drifting to the right at such a degree of drift that it will go 52 inches out of a straight line in less than a thousand yards, if it should meet with some obstruction it would not go point on from the muzzle of the gun, would it, but would probably be deflected, would it not, by that obstruction?—A. I don't think I quite understand the question—if it should drift 52 inches in 1,000 yards, did you say?

Q. Let me make a diagram here. Here stands a man with a gun, and he fires it straight ahead, but there is a drift of 8 inches out of a straight line to the left up to 600 yards, and then it turns to the right, and crosses the line at a distance—A. At 1,100 yards.

Q. It crosses the line after it passes 1,100 yards.—A. Yes, sir.

Q. Between 1,100 and 1,200?—A. Yes, sir.

Q. Then at 900 yards farther it is 52 inches to the right?—A. Yes, sir.

Q. So that it goes very rapidly to the right, does it not? Now, when that bullet strikes something it is liable to be deflected, is it not?—A. I do not think that angular amount of drift in that distance would have any effect in deflecting it when it struck.

Q. Do you think that a man looking through the hole it would make, if it went right straight through, and sighting through that hole, could see the man who fired the gun?—A. At 2,000 yards?

Q. Yes; suppose at 2,000 yards, when it is 51 inches and some tenths of an inch out of line, or more than 4 feet out of line, you look through the hole it makes, if it goes straight through, would you think that would carry your sight back to the point from which the bullet was fired?—A. If the thickness of the material through which the hole passed was slight, I think you could; if it was great, you could not.

Q. If you should look through the hole, which you think would go straight through in the line that the bullet was then traveling, which was a deflection to the right from a straight line to the extent of 4 feet in 900 yards, you think by looking through you could see the point from which the bullet was fired?

The CHAIRMAN. Do you mean 900 yards? You said 2,000 yards a while ago.

Senator FORAKER. The testimony of the witness is based on the table that appears in the book—that after the bullet crosses the line in its drift to the right in going 900 yards it deflects 51.8 inches. That is correct, is it not?

The WITNESS. Yes, sir.

Q. In the next 900 yards?—A. Yes, sir.

Q. Now, suppose this is the 2,000-yard point, and it strikes a piece of wood and goes through it, and you were to plant yourself on the opposite side and look through that hole, you think it would go straight through, and do you think you could see the point from which the bullet was fired?—A. In my opinion, you could, if the hole was through a thin material. Otherwise, possibly not. The amount of deflection of a little over 4 feet in that distance I do not think would be appreciable.

The CHAIRMAN. A distance of what?

Senator FORAKER. A distance of 2,000 yards.

The CHAIRMAN. That is what I want to get at.

By Senator FORAKER:

Q. You think if that bullet made a straight hole when drifting at the rate of 4 feet in 900 yards, if you should stand on the opposite side, you could look back and see the point from which it was fired?

Senator WARNER. He says it depends upon the thickness of the piece of timber.

Senator FORAKER. Let him make it as thin as he pleases. He said it would be a straight hole in his opinion, that there would be no deflection.

The WITNESS. I did not say quite that, Senator.

Q. What did you say?—A. I said I did not think the angle would be material.

Q. I am speaking now, first, as to deflection. Didn't you say there would be no deflection?—A. No, sir.

Q. Would there be a deflection?—A. I understand the deflection to be 52 inches at the 2,000-yard point.

Q. Now, what I mean is, when the bullet strikes an obstruction—

A. Would it be deflected farther? Is that what you mean?

Q. Would it not, striking an obstruction, going at that rate of drift, be deflected from a straight line?—A. You mean, would there be a farther deflection?

Q. Yes.—A. No; I do not believe there would.

Q. You think there would not be any farther deflection? You think it would go right straight through if the obstruction was thin?—A. I think it would; yes, sir.

Q. How thin?

The CHAIRMAN. He said that in looking back through he could see the firing point.

Senator FORAKER. If it was thin.

The CHAIRMAN. Yes.

By Senator FORAKER:

Q. Now, I want to know how thin?—A. It is impossible to state that without figuring it out; but I think it would be impossible to

tell by the eye the difference in the direction of the hole made by a bullet thus deflected, if it went straight through.

Q. Suppose the bullet went through a thickness of 2 inches?—
A. I should think, probably, you could see the firing point.

Q. You think you could?—A. I could not say positively, without calculating:

Q. Is there a way to calculate that?—A. Yes, sir.

Q. How big a hole would one of these .30-caliber bullets make?—

A. In ordinary pine it would make a hole of practically .30 caliber.

Q. If it went point on—straight through?—A. Yes, sir.

Q. If it did not tumble?—A. Yes, sir.

Q. If it were in soft wood, the wood would fur up and probably close up the hole altogether?—A. Such a thing might happen. It depends upon the condition of the wood.

Q. Suppose you could not look through, but you could run a pencil through. It would make a hole big enough for that, wouldn't it?—A. It ought to be about that; yes, sir.

Q. And we will assume that the point of entrance and the point of exit were of about the same size.—A. Yes, sir.

Q. That is what would happen in a normal case. Now, you put a pencil through. Do you think that would point to the place from where the gun was fired?—A. It ought not to, if the hole was in a direct line with the bullet as it was flying.

Q. As it was flying at the time?—A. Yes, sir.

Q. That is, if it should strike at 2,000 yards, when it was going at that kind of a drift, the hole that it would make, if it went straight through, would not point back to the place of firing at all, would it?—

A. The axis of the hole would not; no, sir.

Q. The axis of it. That is what I am talking about; and if you were to undertake to look through the hole to discover where it was fired from, you would not know how much deflection or drift to make allowance for unless you knew exactly where the bullet was fired from, would you?—A. No; you could not tell exactly.

Q. Could not tell at all, could you?—A. You could come pretty close to it, sir, I think.

Q. It would be simply guesswork?—A. No, sir; you would have the mathematical limitations of the variation that you could get, and the possible variation caused by that small amount of drift, compared with the range, would not give you a very wide area of variation for your guess.

Q. If you put a pencil through it, it would not point to the spot from which the bullet was fired?—A. Not absolutely.

By the CHAIRMAN:

Q. As I understand your statement, it is that the deflection of the pencil in the hole through the piece of wood would be as 48 inches to 2,000 yards?—A. To 2,000 yards; yes, sir.

Q. Which would be 6,000 feet, or more than a mile?—A. Yes, sir.

By Senator FORAKER:

Q. Would it not be 900 yards, according to the table I have given you?—A. No, sir.

Q. Is not the whole of this drift after you pass 1,100 yards?—
A. Yes, sir; but the drift is 52 inches in 2,000 yards.

Q. The drift to the right is that?—A. Yes, sir.

Q. And the drift to the right commences at 600 yards from the firing point, does it not?—A. I believe it does.

Q. It is 8 inches to the left, is it not, at that point?—A. Yes, sir.

Q. Then from 600 yards down to 2,000 yards, a distance of 1,400 yards, the drift is how many inches?—A. Let me get the figures again.

Q. Eight inches and 52 inches would make 60 inches, would it not?—A. Yes, sir.

Q. To say nothing about fractions?—A. Yes, sir.

Q. Therefore it is a drift of 60 inches, or 5 feet, in 1,400 yards?—

A. Yes, sir; that is right.

(Witness excused.)

The CHAIRMAN. The Chair lays before the committee a record of the proceedings of a court-martial convened to try Capt. Edgar A. Macklin, Twenty-fifth U. S. Infantry. Unless there is objection, an order for printing the same will be given, and the clerk of the committee will be authorized to index the printed record, and to order two bound copies for each member of this committee. Furthermore, unless there is objection, the clerk will be authorized to index the hearings printed since May 14, the date of our reconvening, and to order them reprinted, with various corrections, and bound as volume 3 of our hearings, two copies to be lettered with the name of each member of the committee—all this indexing and binding to conform in style to that of the court-martial proceedings and hearings now before us.

There being no objection, the clerk was so ordered.

(At 4 o'clock and 48 minutes p. m. the committee adjourned until Monday, November 18, 1907, at 11 o'clock a. m., at the room of the Committee on Military Affairs.)

(June 18, 1907.—Letter received from War Department by the chairman.)

WAR DEPARTMENT,
Washington, June 17, 1907.

SIR: Referring to the request made by you to the Chief of Ordnance to ascertain and report whether the Mexican Government was rearming any portion of its troops, and especially those at Matamoros, with rifles other than the 7-millimeter Mauser, now the adopted weapon of that power, and if so, of what caliber, I have the honor to state that the military attaché to the American embassy at the City of Mexico reports in response to the Department's inquiry that—

"Seven-millimeter Mauser rifles exclusively issued; not chambered for our ammunition."

Very respectfully,

ROBERT SHAW OLIVER,
Acting Secretary of War.

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,
United States Senate.

MAY 5 - 1933

